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JUNE MEETING.

THE stated meeting was held on Thursday, the 12th instant, at three o'clock, P. M.; the PRESIDENT, MR. ADAMS, in the chair.

The record of the last meeting was read and approved; and the Cabinet-Keeper, in the absence of the Librarian, reported the list of donors to the Library since the last meeting.

The Cabinet-Keeper reported several gifts, including a bronze medal, from Brenton H. Dickson, Jr., struck to commemorate the two hundredth anniversary of the town of Weston.

In the absence of the Librarian the Editor reported a gift by Mr. Samuel Thomas Pickard of a volume of Laws of Massachusetts and some manuscripts found in the library of the late John Greenleaf Whittier. The Book of Laws, printed in 1742, contains 333 pages, with the sessions laws for 1742 and 1743, to page 348 inserted. One of the manuscripts is an orderly book kept probably by Adjutant William Mordaunt Bell, of Col. George Reid's 2d New Hampshire Regiment, from May 19 to July 25, 1779, while his regiment was with General Sullivan's expedition against the Indians. A list of journals of this expedition was communicated to the Society by our associate Mr. Davis in May, 1886.¹ The other manuscript is printed below.²

THE WINTHROP HISTORY.

The PRESIDENT then said:

The last meeting of the Society at which it was my fortune to be in attendance was Thursday, March 13th, — three months since. Then busy with the final arrangements for an absence from the country, I thought it not improbable I might be away until midsummer. Thursday last, however,

¹ 2 *Proceedings*, II. 436.

² See p. 484, *infra*.

the 5th instant, found Mr. Ford and myself at the East Boston dock of the Cunard Company.

We were, none the less, absent from the April annual meeting; and, as your record shows, I was then re-chosen to the position I have here held for the last eighteen years. With due allowance for the unforeseeable, moreover, I am apparently to continue to occupy this chair for some little time to come. This naturally suggests a topic connected with the more important work the Society has in hand, to which I propose now to refer, — thus making it matter of record. My allusion is to the proposed edition of Winthrop's *Journal*, in sequence to the definitive edition of Bradford's *History*, brought out under the auspices of the Society during the past year.

As some of the older members doubtless recall,¹ the preparation of scholarly and, so to speak, monumental editions of both Bradford and Winthrop under the immediate auspices of the Society has been a matter which I personally have long had much at heart. The project was brought up and fully discussed at meetings of the Society in 1898, — and a sufficient record of what was then proposed to be done, and why it was not done, will be found in Volume XII of the Second Series of our *Proceedings*. Owing to the decided opposition of the younger Robert C. Winthrop to a republication at that time of Winthrop's *Journal*, the reissue of the two initial records was postponed, and temporarily abandoned. I confess to having at the moment felt a sense of deep disappointment at this outcome; but looking back after the lapse of fifteen years, — during which Mr. Winthrop has passed on — I am now free to say I think there was reason for his opposition. In this case, moreover, nothing has been lost by delay. His objection was based simply on his extreme dislike of anything sensational or in the nature of haste in issuing such publications, and the admitted absence of any entirely competent as well as otherwise qualified editor for the Winthrop. So far as the Bradford was concerned, he concurred in the proposed program; he also agreed that the time had come for a new editing of the Winthrop. He more than once dis-

¹ Of the names of those composing the Resident Membership of the Society at the time referred to, forty only are now carried on the roll.

cussed the matter privately with me, canvassing in a confidential way the qualifications of every one available for the editorship. But, in this matter, his standards were high. As respects character as well as scholarship, he went back to the days of James Savage, Charles Deane and his father; and they certainly had left no successors in their particular line. It was indisputable that the race of those who, *con amore*, so to speak, made a specialty of our early New England history had died out. And this in my talks with Mr. Winthrop I found myself compelled to admit. He, on the other hand, went so far as to offer himself to meet the entire cost of republication, provided only an editor could be obtained in whom he felt confidence, — that editor moreover to be in no way hurried in his work. As I now see, he was in the main right; the project of 1898 was premature, and, if then carried out in the way proposed, the work would necessarily have been superficial as well as hasty.

The first part of the program then suggested and discussed is, however, now an accomplished fact. As the Society knows, during the last year the Bradford has reappeared in a definitive, and what we believe will prove its final, form. The more difficult task, a re-editing and republication of the Winthrop, is next to be entered upon.

I bring the matter up in this way and at this time because of the strong desire I feel that the Winthrop also should appear in like definitive form during my Presidency of the Society. For reasons unnecessary to refer to in detail, this, measured in years, cannot much longer continue. There is, therefore, I feel, no time to lose.

During my recent absence, especially while on my return voyage, this has been with me matter of somewhat anxious thought, and I discussed the situation freely with our Editor. Mr. Ford intimated that two years might well in the opinion of some be allowed to elapse between the appearance of the Bradford and any active steps looking to a republication of the Winthrop. So far as editorial work was concerned, everything was, he assured me, in readiness. The Bradford had paved and made broad the way to the Winthrop. It was only necessary to put the accumulated material in shape for the compositor; but the outcome of the publication of the Brad-

ford as a commercial and financial proposition was not yet clear, and the Winthrop would involve a much larger liability than had been incurred because of the Bradford, if edited and published in the same way, — not improbably double the amount. It was, therefore, perhaps prudent from a purely business point of view to defer the more considerable work until possibly the year 1915.

So far as the incurring of obligations, necessarily more or less speculative in character, in excess of means in plain sight is concerned, I wholly concurred in these doubts and suggestions. In the case of Societies such as this of ours, everything in the long run depends on financial stability. No uncertain liabilities should ever be incurred; no burden of possible debt assumed. On the other hand, it at once suggested itself that should this course of prudence and consequent delay be adopted the Winthrop would hardly appear in my time; and, on this head, I want to take no chances. All necessary preliminaries to the Winthrop being disposed of in the issuing of the Bradford, the only possible objection to proceeding at once with the former would be financial. Ought the Society to incur the obligation, uncertain in amount, contingent on the publication of the Winthrop until a fund necessary to meet any possible deficiency had been accumulated, and is in the hands of the Treasurer?

This objection, I assured Mr. Ford, it was unnecessary to consider. The strong desire I felt that the Winthrop should be published with no unnecessary delay, and so in my time, was a sufficient inducement for me to arrange a guarantee that no portion of the cost of the proposed edition should fall upon the Society. From assurances which have reached me, I felt confident of my ability so to do; and my confidence was such that I felt justified in assuming on this head a personal responsibility.

I now bring the matter up in connection with my re-election at the April meeting in order to state as of record that Mr. Winthrop's liberal proposition in this respect will be renewed; and that the Society, should work on the Winthrop begin at once, will be guaranteed against any liability because of the cost of the proposed edition over and above the amount received from the publishers through the sale thereof.

I have, therefore, to announce that, the Bradford having been published, the Editor will at once proceed with the Winthrop; the work on which will be pressed forward with all reasonable promptitude, in a confident belief on my part that it can appear under the auspices of the Society during the time it may not unreasonably be fair to expect is still allotted to me.

But, before dismissing this matter in connection with the action taken at the recent annual meeting, may I be permitted to add that, in preparing the announcement now made, something caused my memory to revert to a passage in Hallam's preface to the first edition of his *Literary History of Europe*, a passage which so impressed me when I first read it, over fifty years ago, that it still lingered in memory. It seems to have a certain propriety in the present connection, always bearing in mind the fact that when he wrote it the historian lacked eighteen years of the time of life at which I have arrived. Hallam spoke of authors, but his observations are equally applicable to editors, and those who seek to promote the publication of "definitive" and "memorial" editions of writings long since become classic:—"An author who waits till all requisite materials are accumulated to his hands, is but watching the stream that will run on for ever; and though I am fully sensible that I could have much improved what is now offered to the public by keeping it back for a longer time, I should but then have had to lament the impossibility of exhausting my subject. . . . But I have other warnings to bind up my sheaves while I may, — my own advancing years, and the gathering in the heavens."

Governor LONG proposed the following minute in recognition of the statement and proposal of the PRESIDENT, which was unanimously adopted:

The Society puts upon record its high appreciation of the generous action of its President, Mr. Adams, in making sure, as just stated by him, of the immediate undertaking by the Editor of the publication of the Governor Winthrop *History*, and also its hearty sympathy with him in his desire that the work, in which he has taken such a deep and effective interest, may be completed while he is still head of the Massachusetts Historical Society.

Mr. C. F. ADAMS also read a paper on

THE OXFORD COURSE OF AMERICAN LECTURES.

In the notice of the present meeting I see it stated that I proposed this afternoon to make reference to "The Course of Lectures at Oxford University on American Institutions." Such is the fact; and thus immediately on my home-coming it is my purpose to make something in the nature of a record relating to my experience in following our associate, Mr. Rhodes, in the delivery of this recently established annual lecture course. In so doing I wish to premise I am largely actuated by my belief that I was invited to deliver these lectures this year more especially as President of this Society, and not, as in the case of Mr. Rhodes, individually and, so to speak, on my personal record as an historian of established repute and accepted authority. For this reason some reference to the experience will not be out of place in our *Proceedings*. What I have to say may, moreover, prove in other respects suggestive.

This course of lectures was only recently provided for, — largely, I am led to infer, through the influence and active exertions of certain of the Oxford professors and instructors who had lectured in this country, more especially Mr. A. L. Smith of Balliol. It is to a certain extent the natural outcome of the Rhodes Scholarships, so called, to which here and now it is not necessary more than to allude. I will merely say I was surprised to find that in the Oxford of the present time there are between one and two hundred undergraduate and graduate students from America, beneficiaries of the Rhodes endowment.

Our associate, Mr. Rhodes, it will be remembered, was selected — and very properly selected — to initiate the course. This he did a year ago, delivering three lectures which have since appeared in printed form.¹ I followed him, being left at liberty to deliver as many lectures as I might see fit, with the single restriction in relation thereto that they dealt with American historical topics. In other words, I was not to discourse on history and historical themes in general, — a restriction, let me add, which commended itself to my own judgment.

¹ *Lectures on the American Civil War*, 1913.

After giving the matter consideration with such lights as I then had, I determined on a course of four lectures. I did not see how I could deal properly with the topics which suggested themselves in less space; and in fact, as the result showed, a course of six, or seven, or of even eight lectures would scarcely have sufficed for a proper treatment of those topics. In the full light of experience, I see no occasion to revise this judgment. In fact, I fail to see how any one man or any succession of men, even an American or Americans of the greatest international vogue, could go to Oxford and there deliver a single lecture of one hour which would be in any way either illuminating or really instructive. After an initial effort, — a species of literary *tour-de-force* of a nature necessarily somewhat sensational — the performance would consequently, as I see it, be too condensed to justify itself. In any event, I am very sure that pursuing such a course, — discoursing, as must necessarily have been the case, purely on American generalities, — I could not have acquitted myself either to my own satisfaction or to the edification of my listeners. What another differently equipped might have accomplished in this way, or might yet accomplish under similar conditions, it is not for me to consider.

I accordingly in signifying my acceptance notified the Vice-Chancellor of my intention to deliver four lectures, — the course to be generally designated as one on “Trans-Atlantic Historical Solidarity,” the four several treatments to appear under specified heads.

Naturally, the subject had more or less been present to mind during the winter between my acceptance of the invitation and my sailing on the 18th of March. I had, meanwhile, another end in view very personal to myself, in truth the controlling factor in my acceptance. I looked on a lecture course at Oxford as, so to speak, a possible fulcrum. Occupied as I have been for years with the papers of my father, relating more particularly to the diplomatic and international aspects of our Civil War period, I desired to see if I could not in England get at historical material, both public and private, to which references only could be found in numerous English publications. Convinced that such material existed, experience had satisfied me that what I wanted could not be

secured through the agency of others; however influential. Personal application was necessary. It was for this reason I took possession of our Editor, looking to him to make researches among material which, could access to it be obtained, I felt myself incompetent to handle. The result fully justified my expectation. Into this matter I shall not here enter further. I will merely say that our joint success in this field exceeded my most sanguine anticipation; and, moreover, I am satisfied that so far as British historical material connected with America is concerned, no adequate use has yet been made of it. The various depositaries remain to be developed. This, in my judgment, goes even back to the beginning. It is a case of the Bradford MS. over again. For example, as the outcome of my own efforts and investigations and those of Mr. Ford during this brief trip, I am by no means satisfied that the missing portions of Winthrop's *Journal* might not, as the result of a search at once intelligent and persistent, still be recovered. In other words, I do not believe that when Margaret Winthrop came over to America in the Spring of 1631 the elaborate letters which we know her husband had written her and others since their parting were then destroyed; nor do I see any sufficient reason to believe they have been destroyed since. My own conviction is that they still exist in some family or neighborhood repositories, — undiscovered material. At any rate, from my recent experience in other quarters in connection with not dissimilar historical matter, I am satisfied the search is one worth making. I propose to act accordingly; and am not wholly without hope that the letters of Winthrop in Boston to his wife still in England, constituting the first and hitherto missing portions of the *Journal*, may yet appear in the Society's coming edition.¹

This, parenthetically; but recurring to my Oxford lectures, I have to say that while a lectureship on American history has recently been established at Oxford, it was not there established prematurely or, in my opinion, before it was needed.

¹ See the interesting and suggestive remarks on this head of R. C. Winthrop, Jr., at the October meeting of 1898, 2 *Proceedings*, XII. 298-299. [The letter of Governor Winthrop, mentioned in these remarks, was in the Carew family, Taunton, Co. Somerset, but disappeared on the property's passing on the death of the son. A mass of books and papers belonging to the family, with many American items, was sold at auction. Ed.]

On the contrary, judging by what I saw, and the impressions left on my mind as well as on the mind of Mr. Ford, it opens a field which admits of a large and much needed development. Stating the case frankly, I am led to believe that, while personally I was treated with marked courtesy and high official consideration, so far as American history is concerned few at Oxford know anything of it, and not many desire to be better informed. The fact is, throughout England, so far as my means of observation enable me to form a judgment, all faces are historically turned towards the East. America and the history of our Western trans-Atlantic communities are little studied; nor are they looked upon as a profitable field of study.

Of this general, and possibly somewhat sweeping, proposition I had last winter a curious illustration, which subsequently, in the delivery of my course, caused me no little trouble. While in Washington it was my good fortune to see a great deal of our honorary associate, Mr. Bryce. Mr. Bryce evinced, moreover, a very considerable interest in my proposed course, he himself having for many years been an Oxford lecturer. One day when we were taking a long stroll together through the streets of Washington, he took occasion to inquire as to the topics with which I proposed to deal, and my methods of treatment. I at once told him that my main thesis would be certain phases of what we in America termed the "Civil War," — that is, the struggle which convulsed the United States and attracted the attention of the whole civilized world during the four years between April, 1861, and April, 1865. I was surprised and somewhat taken aback by what followed. In the gentlest possible way — most diplomatically, I might say — Mr. Bryce proceeded to intimate that I would probably find an English audience of the present generation, especially an Oxford lecture audience, quite uninformed on everything connected with our Civil War, which, indeed, had now become to the people of Great Britain somewhat remotely historical. In other words, our great American conflict of half a century back had quite passed out of English recollection, and taken its place with other episodes of a character more or less important which had since occupied and at the moment, perhaps, engrossed public attention. Occurring at different times

and in many countries, these, Mr. Bryce intimated, had now followed each other into oblivion; and our great ordeal had proved no exception to the general rule.

Time hath, my lord, a wallet on his back,
Wherein he puts alms for oblivion;

and, so far as an Oxford audience was concerned, to time's wallet I found my topic by high authority very comfortably assigned.

While, however, conveying to me in guarded terms this not altogether palatable intimation Mr. Bryce added the qualifying remark that when our war occurred — that is, during the period between 1861 and 1865 — he then being a recent Oxford graduate, the incidents of the struggle as it progressed had excited deeper interest in England, especially in social and political circles in London and Oxford, than any event of a similar character which has since occurred. He even went so far as to say that so intense was the interest at the time felt over that struggle, partisans of the South arraying themselves against sympathizers with the North, that discussions were discouraged. At the dinner table, for instance, passages occurred marked by acrimony and even rudeness. The ordinary social amenities were altogether too frequently disregarded. This he distinctly recalled; and what he said confirmed my own personal, in some connections painful, recollection.

There was, however, another observation of Mr. Bryce, made by him on the same or some similar occasion, to which also I must now refer. He intimated, again in diplomatic fashion, a decided doubt whether our Civil War as an historical episode and incident in the great evolutionary record would hereafter loom up in the same large proportions it always must bear in the minds of those of the American generation directly concerned in it, — the generation to which I personally belong. The issues, he more than hinted, were in his judgment either of no great fundamental importance, or, in the case of slavery, already foregone conclusions; and the personages who figured in the struggle would, he thought, become less considerable with the lapse of time. Finally, he more than implied a personal belief that the memorials we had created to them would not infrequently call for explanation.

This was to me a novel point of view; and then, and subsequently while preparing my lectures in London, I gave no inconsiderable thought to it. After all, might it not be so? Nations, like individuals, are always disposed to magnify the importance of events in which they are both personally and deeply concerned. Above all, going to Oxford to deliver a course of lectures, to a degree international in character, it behooved me to avoid anything which might seem grandiose in character, — the eagle must emit no semblance even of a scream! On this side, as I have already intimated, Mr. Bryce's remark occasioned me no little perplexity and, subsequently, a very considerable amount of labor, revisionary in character. In fact, I threw aside nearly all the material I had prepared, and, starting afresh, groped my way, so to speak, as I progressed, studying a British environment. My lectures, therefore, as they were finally delivered were altogether different in purport from those I had before I left home proposed to deliver. Still, I in the close wholly failed to concur in Mr. Bryce's judgment. On the contrary, the more I, from the point of view he had suggested, reflected on the matter the more I felt convinced that, as the years rolled on and the generations passed away, the results of our 1861-1865 conflict would assume ever larger proportions and become matter of more careful study. Our American Civil War will, in fact, when the final verdict is rendered, loom large and become an accepted episode of first-class and world-wide importance. Its dramatic features will also be recognized.

In this spirit, more and more possessing me, I prepared my lectures in the course of their delivery. So far as the issues involved in our struggle, and in some cases therein decided, were concerned, I felt I was teaching school. Of those issues I found myself impelled to emphasize at least three. First was the process and consummation of a national crystallization. The formal entry on the world stage of a Power admittedly of the first class is not, I submit, an incident of secondary historical importance or one likely to be forgotten. Such was, however, the direct and immediate outcome of our American Civil War. The next issue of importance decided in that conflict, chattel humanity, was also a world issue, the history of which goes back to the very beginning, — literally,

to the Book of Genesis. To any one at all acquainted with even Scriptural narrative, the fact that human servitude has existed from the commencement admits of no question. That in 1860 slavery as an institution was becoming subject to greater and greater recognized limitations is indisputable; as also that among the nations of the world of more advanced civilization it had ceased to exist. That it was then a system doomed throughout the world we now see. So far as the African was concerned, however, down to the Proclamation of Emancipation of President Lincoln, negro slavery was a recognized institution, certain exceptional countries alone having outlawed it. The Proclamation of Emancipation, one of the most dramatic acts in the history of mankind, thus literally struck the shackles from the bondsmen, irrespective of race or hue. This I felt more and more confident was another by no means inconsiderable outcome of our Civil War.

Nor was the next issue of less importance than those already specified, — I refer to the world movement towards what is now known as Democracy. That issue was very directly involved in our struggle. This no more admits of denial than that Democracy is an issue now much in evidence in European as well as American political activities, and more especially in those of Great Britain. It may be described in fact as the political issue of to-day, tending toward Collectivism, as it is called, and through that to Socialism. That this tendency received a pronounced impetus as one of the outcomes of our war, I take to be so indisputable as to call merely for mention.

Thus, Mr. Bryce to the contrary notwithstanding, as I meditated the matter in London, no less than three issues of Trans-Atlantic Historical Solidarity of first-class historical significance suggested themselves: first, United States nationality; secondly, the end of slavery or property in man; third, the evolution, if it may be so called, of Democracy. These, moreover, were what may be described as civil issues only. But, when it came to military and naval considerations, the importance of the struggle was no less marked. In fact, there it assumed largest proportions and deepest emphasis; for, whether by sea or on land, it revolutionized warfare. As respects maritime operations, this admitted of no sort of ques-

tion. The British navy of the Crimean war passed out of existence and was consigned, so to speak, to the junk heap, when the old-style United States 40-gun frigate *Merrimac*, crudely remodelled into a nondescript iron-shedded confederate floating battery and steam-ram, now called the *Virginia*, made its way from Norfolk to Fortress Monroe in early March, 1862, there unexpectedly encountering the newly devised armored and turreted United States steam-battery, the *Monitor*. Before that affair the navies of the world were made up of wooden sailing-ships with, perhaps, auxiliary steam-power; out of it emerged the super-*Dreadnought*. A revolution in naval architecture and tactics had in a single day been worked no less radical than that brought about by Drake and the British mariners through their windward manœuvring in the conflict with the Spanish Armada three hundred years before. It is no exaggeration to say that the action at Hampton Roads in March, 1862, bore the same relation to the attack of the combined British-French fleets on the defences of Sebastopol in October, 1854, that the destruction of the Armada in 1588 bore to the battle of Lepanto in 1571. This, for the sea. It was, however, precisely the same in military operations. During our war, as other nations have since learned, the discovery and application of the breechloader and magazine gun rendered frontal attacks impossible. The tactics of Napoleon were remitted to the past of Alexander. Thus, in spite of the doubts suggested by Mr. Bryce, my more mature reflection satisfied me that it was fairly a matter of question whether any conflict ever waged between men on earth had been more momentous, and more fruitful of results both immediate and remote than that in which, between 1861 and 1865, it had been given me to participate.

It was with this conviction and in this spirit I addressed myself to my work, feeling my way, so to speak, as I went along; for after reaching London I had to recognize the fact that I was addressing an audience quite uninformed on the subjects with which I was to deal, and far more interested in historical evolution and events either of the more remote past or even now elsewhere in progress. In other words, an audience which had to be educated, starting with the elementary.

My effort, therefore, throughout was to develop the close, at times the dramatic, connection of American history with their own. I selected my topics accordingly; with what degree of success remains to be passed upon by others. The ordeal, I freely confess, was one I should not care to be called upon again to face. In passing through it, moreover, I found myself compelled to omit, as impossible of condensation and use within the time allotted me, a large amount of material very necessary, from my point of view, to a correct understanding of the topics with which I dealt. The material thus set aside was indeed fully equal in amount to that used. The whole will appear in the published lectures, to the preparation of which I have now to address myself. In doing so I shall, as when at Oxford, continually bear in mind that I speak as President of this Society, addressing a foreign audience disposed to be courteous but in no wise actively interested. My object throughout, therefore, will be to impress such as may study my Oxford course with a sense not only of the importance of our American history in connection with that of Europe, but of the far-reaching world-wide influence it both has exerted and is hereafter destined to exert, from which Great Britain as a community has perhaps not least of all been exempt.¹

Mr. WINSLOW WARREN read a paper on

THE COLONIAL CUSTOMS SERVICE IN MASSACHUSETTS IN ITS
RELATION TO THE AMERICAN REVOLUTION.

The early history of revenue legislation in Massachusetts, and its actual administration in the port of Boston, runs into romance and revolution—it touches the deepest political convictions of the people and clearly marks the growth and progress of a spirit of independence in Massachusetts which resulted in numerous disturbances and disagreements long before the open outbreaks at the time of the Stamp Act, the

¹ In connection with this paper I also file in the Society's Scrap-book two newspaper clippings which have a very distinct bearing on the conditions under which the lectures in question were delivered, especially the fourth, and final, lecture. The first is from the *Boston Herald* of June 6, 1913; the second, reprinted from the *London Times*, is from the *Boston Transcript* of June 7th.

Tea Acts and the Boston Massacre, and culminated in the Revolution.

In considering the early attitude of the colonists, it is well to remember that they did not come to America as to a new country to which no one claimed title, for the king of England had proclaimed his ownership of all the land from the southernmost limits of Virginia to the Hudson, and even farther north upon the coast, and they sought and obtained his permission to settle upon his domains, in no way renouncing their allegiance, but on the contrary proudly claiming they were Englishmen — subjects of the king, with all the rights and obligations of Englishmen. To be sure, later on, they tried to draw a distinction between their duty to the king and that to Parliament, but it was somewhat academic and hardly a tenable theory.

Under the original charter of 1628, the Massachusetts Colony was exempted for a period of years from taxes, customs and subsidies upon goods exported to or imported from Great Britain and her dominions, and if the power to exempt be admitted the power to impose would certainly seem to go with it. That, however, does not appear to have been the view of the colonists, for while they did not directly assert their independence, it is surprising to see how far they went towards it in the very earliest days of the colony. In 1638 the General Court of Massachusetts in an address to the Lords Commissioners of Foreign Plantations against taking away the Patent which had been ordered sent to England, used these very suggestive words:

If our Patent be taken from us (whereby we suppose we may claim interest in his Majesty's favour and protection), the common people here will conceive that his Majesty hath cast them off and that hereby they are freed from their allegiance and subjection *and thereupon will be ready to confederate themselves under a new government for their necessary safety and subsistence, which will be of dangerous example to other plantations and perilous to ourselves of incurring his Majesty's displeasure, which we would by all means avoid.*

The words I place in italics have a peculiarly threatening tone for this early stage in the game.

At the time of the Confederation of Massachusetts and

other colonies in 1643, Winthrop in his Journal says that they "omitted the oath to bear true faith and allegiance to our Sovereign Lord King Charles, seeing that he had violated the privileges of Parliament and had lost much of his Kingdom, and many of his subjects," and again in his Journal in 1646 we find the assertion that the Charter gave the Colony absolute power of government, for thereby he says — "we have power to make laws, erect all sorts of magistracies, to correct, punish, pardon, govern and rule the people absolutely" — and at the hearing before the Privy Council in England in 1646 upon the claims of Gorton and others, the colony agent, Edward Winslow, was directed to maintain that the freemen of Massachusetts had a right to omit the king's name from legal processes because the Colony claimed, "not by commission but by free donation of absolute judgment," that they showed their "subjection to England by framing their government according to their Patent received from her," that their exercise of admiralty jurisdiction was "an incident to their chartered power to defend themselves and offend others as well by sea as by land" — and that "the absolute power of government vested in them by the Charter secured them against the imposition of a General Governor."¹

In their remonstrance to the Commissioners at that hearing, the magistrates of New England in reply to Gorton said that while an answer might be "prejudicial to their liberties granted by their Charter and to their well-being in this remote part of the world," they protested against its being drawn into precedent, and gave as a reason what sounds almost like a prophecy in view of the events a century later: "lest when times should be changed, — for all things below are subject to vanity, — and other Princes or Parliaments should arise, the generations succeeding should have cause to lament and say, England sent our Fathers forth with happy liberties which they enjoyed many years notwithstanding all the enmity and opposition of the prelacy and other potent adversaries — how came we to lose them under the favor and protection of that State at such a season when England itself recovered its own."

And the colony agent, Edward Winslow, in his address to

¹ Winthrop, II. *299-301.

the Lords Commissioners, said: "If we in America should forbear to unite in defence against the common enemy till we have leave from England, our throats might all be cut before the message would be half seas through."

The Gorton controversy had no reference to revenue matters, but I cite these paragraphs in illustration of the spirit thus early animating the Massachusetts colonists, for it was upon such theory that the Colony assumed the right to enact its own tariff laws and to collect revenue for the benefit of its own treasury upon goods imported; and it is plain that the British laws and orders restricting trade or asserting the right to collect revenue from goods imported into the Colony were opposed so far as it was safe, constantly evaded and only submitted to when opposition became dangerous. Not all the colony tariff laws were contrary to British laws, but many of them appear to disregard British trade restrictions and British acts forbidding importations from other countries. They certainly were in opposition to the British theory of absolute control in such matters, and in their practical working must have diverted funds from the British treasury and greatly encouraged neglect and disobedience of the trade and navigation acts.

The natural result of the repeated refusal of colonial legislatures to obey Parliamentary acts not submitted to them for approval and of the frequent legislation for the colony benefit only was to steadily foment bitterness between royal and colonial officers, and the constant irritation and excitement led more and more, as time went on, to an independent attitude.

For some years after the settlement of Boston in 1630, during the reign of Charles I, the Colony was practically allowed to manage its own affairs with little hindrance from the mother country, although there were threats of cancelling the Charter, and much uneasiness in England over the damage to British trade by the rapid development of the internal and external trade of the Colony; the result of this was various restrictive laws as to trade, but for a time they were not very strictly enforced. Upon the advent of the Long Parliament in 1642, an act was passed and transmitted to Massachusetts expressly exempting exports from England to New England to be used

there, and also any imports between the two countries, from any custom, subsidy, taxation or other duty, inward or outward, until the House of Commons ordered otherwise.

Here again was the plain assertion by their own friends in England of the full right of Parliament to legislate upon the subject.

During Cromwell's rule, from 1649 to 1660, England was fully occupied with her home affairs, and the colonists were so much in sympathy with the political and religious views of the dominant party in England that little attention was paid to the happenings here, although we find that in 1651 Parliament demanded of Massachusetts the surrender of the Charter, to which the Colony replied somewhat emphatically that it was fully satisfied, and took no action thereupon.

With the accession of Charles II, however, in 1660, the situation greatly changed, and questions of prerogative, complaints as to interference by the Colony with British trade and of neglect of observance of the stringent restrictions of the British trade and navigation acts, constantly embroiled the Colony with king and Parliament; yet, though vexatious and the cause of unlimited and sometimes sharp correspondence with the mother country, they can hardly be said to have assumed the proportions of an actual contest until in 1675 the ill-starred Edward Randolph appeared upon the scene and began to meddle with Colony affairs, and persistently and vindictively to urge upon the British authorities the adoption and enforcement of radical measures in regulation of the commerce of the Colonies, and compulsory obedience to trade and navigation acts and crown edicts. The causes of the drastic action which followed were mixed ones, by no means confined to trade or revenue matters, but involved religious differences and the whole question of the power of king or Parliament over the Colony under its Charter; still, it is clear that revenue questions and trade regulations were more directly responsible for the violence of the controversies and discussions which arose than any other one thing, for no other questions were so irritating and offensive or so calculated to appeal to the interests and passions of the people of America and to keep them in a constant state of agitation and excitement.

For many years there were prolonged and skilfully worded correspondence and despatch of agents to England, shrewd disclaimers on the part of the Colony and professed obedience, mingled with covert opposition, to king's missives and Parliamentary acts, while the Colony virtually nullified the acts regulating trade and claimed for itself, more or less openly, practical independence in legislation affecting its own trade. The result of this was that after long-continued dispute the king was finally induced by Randolph to take proceedings to vacate the Charter, to appoint royal governors and other officers, and to select Randolph himself as the royal collector of custom, for New England, with his office located at Boston. In all this the same principles were involved which a hundred years later were settled by the American Revolution, and thus early the people were trained to subsequent action by the consideration and discussion of matters infringing their rights as free men.

The Revolution of 1688 in England promised a change in the situation here, for the passionate feelings of the people were for a time assuaged by their loyalty to the new regime and by their expectation of a more liberal policy in England. But the new Charter of William and Mary in 1691 came as a grievous disappointment to the Province; for while it contained no assertion in direct terms of the power to impose taxes or duties, and no explicit prohibition of Provincial revenue legislation, it distinctly required all legislation of the Province to be submitted to the king for approval or rejection, and provided that all provincial laws not so approved should be invalid and of no effect; and it further made provision for the appointment by the Crown of royal governors and other officers, their salaries to be paid by grants from the legislature of the Province.

Notwithstanding these plain provisions requiring submission of all Provincial legislation to the king, there being no claim in the Charter exclusive of the power of Parliament to legislate, the Province seems to have proceeded upon the theory that *its* right also to legislate was either tacitly conceded or left in abeyance. Before the new Charter arrived the Province had passed acts continuing in force the former colonial legislation until 1692, and after the Charter was in force they still

legislated with not unfrequent failure to submit acts to the king, and in some cases treated acts as legally in force which had not been distinctly approved.

The lack of a positive policy by the Crown in the matter, or its spasmodic action, gave some force to the claims of the Province later on, and caused some embarrassment to the home authorities when they were ready to assume exclusive powers and really to enforce them.

Historians differ as to how far the trade and navigation acts were actually oppressive to the Colony. Bancroft says of them, that "Commerce must have been converted into a source of rankling hostility;" Lecky writes, that "political alienation could not have failed to be the inevitable consequence;" and in his *History of Tariff Administration in the United States*, John Dean Goss states, that in the colonial period various obnoxious English tariff acts were passed and more or less successful attempts made to enforce them, the result being to familiarize the colonists with methods of evasion and to emphasize the almost universal desire to cheat the Government.

Professor Ashley in *Surveys Historic and Economic* endeavors to break the force of these theories by the claim that the British trade and navigation acts were really for the ultimate benefit of the Colonies and that they had few commercial grievances, and Weeden in his *Economic History* rather agrees with Ashley, that the navigation acts were upon the whole a benefit to the Colonies; and Prof. Channing in an article upon the customs service contributed to this Society in April, 1910, goes still farther and says: "The Colonists had never troubled themselves about the constitutionality of these enactments [the navigation acts and trade restrictions], they had not disputed the legality of the law of 1672. . . . Even the passage of the Sugar Act of 1733 had not aroused doubts as to legislative supremacy of Parliament or as to the compatibility of that supremacy with the personal freedom of American Colonists."

These later writers are of high authority; but they appear to me to minimize in an unwarranted manner the excessive friction between the officers of the Crown and those of the Colony and the evidence of the constant and prolonged irrita-

tion of the colonists. The citations I have given and shall give later on not only show this, but seem to furnish incontrovertible proof that the colonists many times and in strong terms denied the supremacy of Parliament and nullified its acts, and that acquiescence in them was not consent, but submission to the strong arm.

If the grievances of the colonists were not real, history certainly shows that they took them seriously and asserted their rights in a surprisingly bold and independent spirit.

With this general review of the relations between the parties, let us trace, as far as time will allow, the actual course of events and the development of feeling and opposition aroused by revenue disputes under the various acts of Parliament and orders of commissioners.

As early as 1636 the Colony passed an act "for preventing the immoderate expense of provisions brought from beyond seas," providing that "whosoever . . . shall buy or receive out of any ship any fruit, spice, sugar, wine, strong water or tobacco, shall pay to the Treasurer one-sixth part of the price or value thereof," or if brought with intent to retail, one-fifth part. This order not to "extend to such wine as the deacons of the churches shall buy or procure, *bona fide*, for the churches public use."¹ The money thus raised was to be paid over to the colony Treasurer, Richard Dummer.

This was a police or sumptuary matter rather than a tariff, but in its operation produced revenue, though the trustworthiness of the deacons may seem a trifle impugned by the exemption of such a wine only as they should buy *bona fide* for the churches' use.

In 1642 Parliament, as before stated, exempted British vessels or colonial vessels with goods to or from England, from any customs or duty inward or outward in the kingdom of Great Britain or New England. While this has no reference to colony legislation, its importance is that it clearly assumes the unlimited power of Parliament to legislate on customs duties in New England, and it is evident that the Colony in no way treated it as an infringement upon their rights; on the contrary, they entered upon the records of the General Court their humble and thankful acknowledgment for it.

¹ *Mass. Col. Rec.*, I. 186.

In May, 1645, the Colony enacted what appears to be their first direct revenue act, providing that all wines should pay "by way of custome or imposition."¹ In October of the same year it was enacted that; "For the better defraying the great charges that necessarily attends the public occasions of this Commonwealth, which by all is desired to be lessened as much as they may be, . . . every person that shall receive any wines from any vessel . . . shall pay to the officer appointed to receive it, for every butt or sack 10 shillings."²

In 1646 a power was given the Auditor General as Chief Customer to enforce this law of 1645, somewhat resembling that claimed by the Crown in 1760 under the Writs of Assistants.

It is ordered by the Courte that the said auditor hath power, and is hereby required, to go into all the houses or cellars he knoweth or suspecteth any wine to be, and from time to time shall seize upon such wines as are not entered, and also seize upon and take possession of so much wines, etc., as to make payment of what custome is due; . . . and hereby all constables and other officers are required to assist and ayde the auditor in the discharge of his dutye, and helping to breake open such houses or cellars if the owners of such wines shall refuse to open their dores or deliver their keyes in a peaceable way.³

The act itself was strictly a revenue tariff for expenses of the government, and was considered an impost rather than a tariff.

In May, 1648, the General Court ordered: "for the better support of the government of this commonwealth, and the maintenance of fortifications for the protecting and safeguarding of our coastes and harbours, for ourselves and others that come to trade with us, it is ordered by this Courte, and the authority thereof, that every person . . . bringing wines into any of our harbours, in any shipp or vessell whatsoever, (except they come directly from England, as their first port,)" is to make entry by a note delivered to the officer that is to receive the customs at his house; and for the better recovery of any such customs, power was given to the chief officer as before to enter houses and cellars.⁴ This act applied also to all wines imported from the other American Colonies.

¹ *Mass. Col. Rec.*, II. 106.

³ *Ib.*, 152.

² *Ib.*, 130.

⁴ *Ib.*, 246.

If any interest was felt in England regarding these particular acts, nothing appears of record; but after Charles's accession in 1660, the merchants of London made such serious complaints against the growing interference of the Colonies with their trade, that action was taken to protect British trade by enforcement in the Colonies of the trade and navigation acts, and by compelling the Colonies to trade only in British vessels or with British subjects, and by allowing no goods to be landed in America from other than English domains without entry first in England, or with provision for returning to England any duties collected; and severe restrictions were laid also upon colonial manufactures competing with those of England.

This opened up immediately a very active correspondence between the British authorities and the colonial, — the former vigorously insisting upon more strict compliance with the trade and navigation acts, and the Massachusetts authorities (for we are confining ourselves to events here, although the other Colonies were equally involved, though perhaps, more compliant), claiming that all laws binding upon them had been obeyed, or, as they calmly put it, — “being not conscious to ourselves that we have greatly violated them.” It is evident, however, that Massachusetts did not change its laws or cease to collect revenue from goods imported from other countries than England, although she did make show of compliance with the trade and navigation acts, so far at least that the Governor issued orders that bonds should be taken from shipmasters to make true return of goods or of proceeds received here, to his majesty's customs in London.

In some measure the Governor's orders were obeyed; but the royal officers still complained of the difficulties and obstructions placed in their way, and of the very little assistance given by the colonial authorities in enforcing the orders. That there was a large contraband trade in direct violation of English law cannot be doubted; nor that revenue collections hardly less illegal went on for the Colony's benefit regardless of Parliamentary acts.

In 1653, an act was passed by the Colony imposing a duty on “strong waters” except from England;¹ and one in 1668

¹ *Mass. Col. Rec.*, III. 318.

imposing duties on cider, wines, etc.¹ Another in 1668 reads as follows:

This Court, being sencible of the great necessity to regulate the way of raising moneys for the defraying of the publick chardges of the commonwealth, experience from time to time, making it to appeare that the concernes of the publicke doe require supplies of moneys out of their treasury, when, as by reason of the great poverty thereof, and the vnsuiteableness of the specie therein to answer the emergencies that doe often happen, the streights of this Court are many and inextricable, and the publicque weale in a suffering condition, doe therefore order, and hereby enact, that there shall from after the first of March next coming, be a custome imposed on all goods and merchandizes . . . imported into this jurisdiction.”²

Under this they appointed commissioners to bring it into effect. That they proceeded to the best of their ability to do this, is evidenced by the following extract from the town records in 1672-73:

At a meetinge of the Selectmen. . At the request of Capt. John Allen, Collector of the Customes, and upon his complaint that Henery Montfort refused to pay his customes or showe his In-voyses of goods imported as the lawe requires, which apeares by the testimony of Richard Knight, and the said Montfort confessinge he had 4 tunns of goods landed out of Mr. Greenowes ship not entred by him with the said Collector. It is ordered that the said Montfort pay said Capt. £16 in money for the impost of said goods rec'd ashore.³

This act would seem to be in utter disregard of any laws or orders from England; and in 1670 there was another act repealing the law of 1668 and imposing duties on all goods from foreign parts, with few articles excepted, and providing that the revenue arising by rate or custom of goods imported should be returned to the public treasury, — that is, the colonial treasury. This 1670 act appears also to be in conflict with the British trade and navigation laws.

In 1672 the Council for Plantations was constituted a Council for Trade and Foreign Plantations.⁴ The British

¹ *Mass. Col. Rec.*, iv. Part ii, 366.

² *Ib.*, 409.

³ *Boston Town Records*, 1660-1701, 73.

⁴ Andrews, *British Committees, Commissioners, and Councils of Trade and Plantations*, 1622-1675, 106.

Parliament, inspired evidently by the constant complaints of the neglect of the trade and navigation acts and of the independent action of the Colonies, passed a still more stringent act applicable to the Colonies. This act assumed for Parliament extreme powers as to the trade of the Colonies, and it is difficult to see how the colonial tariff laws could have been held consistent with its provisions. It left no manner of doubt as to the construction in England of the rights of Parliament under the Charter, and equally left no room for any claim by the Colony of concurrent jurisdiction as to trade or duties. Still, no change of policy appears in the Colony, and customs duties were imposed and collected the same as before. It is not surprising then to find an increased protest in England against the inefficient way in which the British acts were enforced in America.

In 1675 that stormy petrel, Edward Randolph, made his appearance in Boston, and the long and bitter quarrel between him and the Colony may be said to have fairly begun.

To the complaints against the Colony for neglect and disobedience to the trade laws, were now added the very serious and dangerous claims of Ferdinando Gorges and John Mason to territory supposed theretofore to have been included in the grant under the colony Charter. This opened up the question of the general powers of the Colony under the Charter, the extent of the former's jurisdiction as well as of the prerogative of the king, and went far beyond questions of trade and revenue in threatening the Colony's existence as a quasi-independent government, or at any rate in restricting its bounds.

Randolph, by his persistent and malignant representations in London, procured, in 1675, a Parliamentary act "to settle collectors in New England as in other places, that they might receive the duties and enforce the laws." This, if carried out, transferred the collection of such duties from England to this country. On June 10, 1676, Randolph again returned to Boston with an emphatic letter from the king and instructions as to the Colony's neglect and evasion of the trade and navigation acts, as well as to the broad claims of Gorges and Mason, and also peremptory orders to the Colony to forthwith despatch agents to London to explain their proceedings and justify their claims under the Charter.

Randolph presented and read the king's letter to the old Cromwellian governor, John Leverett, but met with a very cold reception. The Governor kept his hat upon his head during the reading of the letter, thereby, Randolph claimed, showing intentional disrespect to the king; treated Randolph himself with impatience; demanded at the conclusion of the reading who "that Coventry was" who signed the letter as Secretary; and then, suggesting that "the Letters contained very inconsiderable things easily answered" and that "it did not concern his government to take notice thereof," paid no further attention to them other than by asking his Council to sustain him in executing the colony authority.

Naturally Randolph regarded this as high-handed defiance, and was yet more incensed when at the meeting of the General Court in August, 1676, the letter and instructions being laid before them, their only action was a show of submission by appointing agents, and furnishing them with long and elaborate explanation and justification of the Colony's claims, to be submitted by the agents in London. Randolph wrote home: "He [Leverett] freely declared to me that the lawes made by your Majestie and your parliament obligeth them in nothing but what consists with the interest of that colony, that the legislative power is and abides in them solely . . . and that all matters in difference are to be concluded by their finall determination, without any appeal to your Majestie, and that your Majestie ought not to retrench their liberties, but may enlarge them."¹

A considerable time now elapsed without much progress in the matter, though Randolph's tactless behaviour increased the excitement of the people as well as his own unpopularity. In Sewall's *Diary*, under date of 1676, we find mention that "Capt. Henchman and I witnessed Mr. Dudley's commission for collecting the customs." This was Joseph Dudley, afterwards President of the Provinces; and the commission was doubtless a colony one; for in a colony act shortly after, ships and vessels were required to pay duty to Dudley for Boston and Charlestown, no royal collector having been appointed up to that time.

In 1677, the Colony passed a law reviving a former one,

¹ *Hutchinson Papers* (Prince Soc.), II. 243.

and requiring an oath of fidelity to the Country from all in authority. The king sharply wrote the Colony that this was "a snare in the way of his good subjects." Why it was "a snare" is apparent only by construing the oath of fidelity to the country as leaving it uncertain which country was intended.

In October, 1677, either in consequence of royal orders, or to justify itself on the record, the Colony adopted the following act, which utterly ignored Randolph, — who then had returned to England, — and stated as the immediate cause of their action and as new facts, things which for years had been apparent and often rehearsed by Randolph and in royal letters and orders. It was as follows:

This Court being informed by letters received *this day* from our messengers, of his majesty's expectation that the acts of trade and navigation be exactly and punctually observed by this his majesty's colony, his pleasure therein *not having been before now* signified unto us, either by expresse from his majesty or any of his ministers of state, it is therefore hereby ordered, and *by the authority of this Court* enacted, that *henceforth* all masters of ships, ketches, or other vessells . . . arriving in or sayling from any of the ports of this jurisdiction, doe, without covin or fraud, yeild faithfull and constant obedience unto and observation of all the said acts of navigation and trade, on penalty of suffering such forfeitures, loss and damage as in the said acts are particularly expressed; and the Governor and council, and all officers commissioned and authorized by them, are hereby ordered and required to see to the strict observation of said acts.¹

The italics are not in the original, but are here used to emphasize the apparent contempt of the Colony for Randolph. The act itself, while acknowledging at a very late day and in a somewhat perfunctory manner the Colony's ready obedience to the royal commands, promises performance solely through colony officers under authority conferred upon them by the colony Court. The very passage of the act and its wording show how little obedience had previously been rendered. The act settled nothing; and it hardly admits of question that it was not expected to help matters much. The fire of letters continued — explanations, protests, justifications, profes-

¹ *Mass. Col. Rec.*, v. 155.

sions of compliance with royal commands followed without number — the British officials all the while demanding something more than words, and the Colony pointing to their laws as showing compliance, and expressing their great anxiety to do anything to meet his majesty's views concerning their laws, "except such as the repeal whereof will make us renounce the proposed cause of our first coming thither." The significance of this exception deserves special attention.

After this scarcely veiled announcement of practical independence they gave a singular explanation of their proceedings in collecting their own revenue from goods imported from England, in these words: "About customs we say that impositions upon goods imported from England is not properly customs, but a rate upon such an estate as a penny a pound when it comes into the merchant's hands as all other inhabitants pay for their cattle and others their estate which they have."

The ingenuity of all this is more evident than its logical soundness, and affords little evidence of the desire or intention to comply in fact with the British laws. It served well, however, to delay proceedings; and the Colony availed themselves to the utmost of the time thus gained in the prosecution of illegal trade and collection of revenue. Randolph, however, was neither deceived nor diverted by professions of obedience, and in spite of the lengthy epistles and the activity and energy of the colony agents, he pressed his complaints in London and in December, 1677, again appeared in Boston and endeavored to enforce the trade laws and compel submission to the royal authority. Meanwhile, as stated, the Council for Plantations had been constituted a Council for Trade and Foreign Plantations, and given enlarged powers.

The Diary of John Evelyn affords remarkable confirmation of what I have said as to the position of the Colony and shows clearly enough the impression made in England and how early the talk of independence was in the air. Evelyn was one of the Commissioners of Trade and Plantations, and writes that May 26, 1671, a meeting of the Commissioners was held in London and that after transacting other business,

what we most insisted on was to know the condition of New England, which appearing to be very independent as to their re-

gard to old England or his Majesty, rich and strong as they now were; there were greate debates in what style to write to them, for the condition of that Colony was such that they were able to contest with all other Plantations about them, and there was feare of their breaking from all dependence on this Nation. . . . We therefore thought fit in the first place to acquaint ourselves as well as we could of the state of that place, by some whom we heard of that were newly come from thence, and to be informed of their present posture and condition; some of our Council were for sending them a menacing letter, which those who better understood the peevish and touchy humor of that Colonie were utterly against.

[June 6] I went to Council, where was produc'd a most exact and ample information of the state of Jamaica, and of the best expedients as to New England, on which there was a long debate, but at length 't was concluded that, if any, it should be only a conciliating paper at first, or civil letter, till we had better information of the present face of things, since we understood they were a people almost upon the very brink of renouncing any dependence on the Crowne.

[Aug. 3rd he writes:] A full appearance at the Council. The matter in debate was, whether we should send a Deputy to New England requiring them of the Massachusetts to restore such to their limits and respective possessions as had petitioned the Council; this to be the open commission onely, but in truth, with seacret instructions to informe the Council of the condition of these Colonies, and whether they were of such power as to be able to resist his Majesty and declare for themselves as independent of the Crowne, which we were told, and which of late yeares made them refractorie. Coll. Midleton being call'd in, assur'd us they might be curb'd by a few of his Majesty's first-rate fregats, to spoile their trade with the islands.

Thus, a century before the American Revolution, it appears that there was fear in England that New England would assert her absolute independence.

In 1678 we find the following declaration by the General Court of the Colony: "Wee humbly conceive . . . that the lawes of England are bounded within the fower seas, and doe not reach America, The subjects of his majestie here *being not represented* in Parliament." The italics are mine, but this would seem to have been a somewhat bold and dangerous defiance of the royal authority at this juncture, and to have

proclaimed pretty clearly the doctrine of the American Revolution a century later, — no taxation without representation.

Things had now reached an impasse, and for several years no change appeared in the attitude of either side to the controversy until February 15, 1682, when the following colony act was passed:

For the satisfaction of his majesty and the better regulating of the navigation and trade of this jurisdiction, and in pursuance of a lawe made October 10, 1677, referring thereunto, it is ordered and enacted by this Court and the authority thereof, that the act of Parliament made in the 12th yeare of his majesty's reign, intituled an act for the Encouragement of Trade, be forthwith published in the market place in Boston by beate of drum, and that all clauses in said acts relating to this plantation be strictly taken notice of and observed as said acts requier.

Following this, was the provision that "by the authority aforesaid [that is, of the Colony], that a Naval office be forthwith erected and settled in the Town of Boston for the entering of ships."¹

The tardiness of this action and the renewed assertion of colonial authority are particularly noticeable, and it is evident that Randolph rated it as mere words. He again sailed for England, and returned to Boston, December 17, 1681, with a commission from the king as "Collector, Surveyor and Searcher of his Majesty's Customs in New England," and also with a commission to William Blathwayt constituting him Auditor and Surveyor General.

These commissions were laid before the General Court in February, 1682; but Randolph writes: "They proceeded to revive an old law and to trye me for my life for acting by his Majesty's commission before it was allowed by them."

He also produced to the General Court a letter from the king dated October 21, 1681, saying, "We are fully resolved in the Trinity Term next ensuing to direct our Attorney General to bring a *quo warranto* in our Court of Kings Bench whereby our Charter granted unto you, with all the powers thereof, may be legally evicted and made void."

Notwithstanding the exasperation of Randolph and the extreme seriousness of the situation, the General Court took

¹ *Mass. Col. Rec.*, v. 337.

no other action than to alter some laws and to prepare an address to the king, and to notify that the Colony had already sent to him Joseph Dudley and John Richards as agents. They arrived in London August 20, 1682, but were so hampered by secret instructions that nothing was accomplished.

In 1682, the General Court provided a Royal Custom House — said to have been in a brick building at the corner of North and Richmond Streets (Olde Red Lyone Inn), and Randolph issued notices that he was ready for business, forbade vessels from entering and clearing at any other place, and attempted to collect duties or impose fees upon all vessels coming to or departing from the port. His notices, however, were taken down by the Marshal under the influence it is said of prominent men in the Colony, and in every way his processes were obstructed or overruled.

This Custom House appears to have been mainly for enforcing the navigation acts and acts of trade, and any duties collected were probably for the expenses of the service. In its operation it must have been to some degree in opposition to the colony customs service, which still collected duties under colony acts in apparent contradiction or neglect of the Parliamentary acts. It may be well doubted whether the royal officers had more than the symbols of authority, and whether they accomplished much other than to increase the excitement and add to the stubborn opposition of the Colony. That the colonial legislation was interfering with the royal customs authority is evidenced by a letter of Randolph at this time complaining that he could not collect customs until the Naval office was abolished.

In October, 1681, the Colony authorities had received a sharp letter from the king, instigated of course by Randolph, complaining that "the Collector had not been able to execute his office to any effect, and that attachments had been brought against him and his officers for doing their duty"; and in reply they had written that "Mr. Randolph was acknowledged as Collector and his Commission enrolled." While this was strictly true, it was about as far as Randolph had progressed. He held the empty title; but the Colony enacted the laws, protected offenders, and in many ways obstructed his processes.

During the winter of 1683 Randolph again returned to

London. In all, he is said to have crossed the ocean fourteen times. This time he was determined if possible to make an end of the matter; and on June 27, 1683, he procured an order vacating the charter, and arrived back with it October 23, 1683. November 7 the General Court was assembled and the documents laid before them: but their only action was to empower Mr. Robert Humphreys, a London barrister, to appear for the Colony.¹

In 1683, the General Court constituted Boston and Charlestown a lawful port of entry, and all ships and vessels were forbidden to break bulk before entry with the Governor and Naval officers in Boston, or with Naval officers elsewhere; but empowering his Majesty's officer to visit and seize vessels for violation of the laws, and requiring all vessels to give bonds and have certificates as the acts of Parliament required, before taking goods on board, other than ship's stores.²

This was the formal establishment by law of the port of Boston, the officers being colonial officers. How far this was to enforce colonial duties is not clear; the power given to "his Majesty's officer" indicates that it was in apparent compliance with the navigation acts, but its chief interest to us is in the renewed assertion of the colony jurisdiction in such matters.

On October 23, 1684, final judgment against the Colony was entered — not under the *quo warranto*, proceedings having been changed to a *scire facias* under which the vacating of the Charter was ordered; but soon after, Charles II died, and February 6, 1685, James II succeeded to the throne. The government of the Colony for a time was provisional only; and there was no change in the situation until May 14, 1686, when Randolph appeared with an exemplification of the judgment against the Charter, and with commissions for Joseph Dudley as President of Massachusetts, New Hampshire, Maine and the king's Province; for William Stoughton as Deputy; and Edward Randolph as Secretary and Register.

Still in 1685 we find a colony act, "By this Court and the authority thereof," providing that Masters of Ships etc. should report to the Naval officer of the Colony all arrivals of wines and strong liquors;³ and as late as 1686 Samuel Nowell was appointed Naval Officer.

¹ *Mass. Col. Rec.*, v. 421-424.

² *Ib.*, 383.

³ *Ib.*, 478.

May 20, 1686, Dudley presented his Commission to the General Court and it was read. The Court made no reply other than to object to its arbitrariness and to the abridgment of the liberties of the people as Englishmen, and adjourned *sine die* after putting on record these suggestive words in the nature of a caveat:

But if you are so satisfied therein as that you hold yourselves obliged thereby, and do take upon you the government of this people, although wee cannot give our assent thereto, yet hope we shall demeane ourselves as true and loyall subjects to his majesty, and humbly make our addresses to God, and in due time, to our gracious prince, for our reliefe.¹

Dudley having secured office for himself by betraying the Colony, now set up the new Provincial government; but all was not smooth sailing, for very soon questions relating to the establishment of Episcopacy caused bitter dissension in the Council, and Randolph ere long became an open enemy of Dudley, while the people, quiescent but sullen, took what comfort they could in the discord and quarrelling among their rulers.

The royal authorities, May 25, 1686, designated Giles Dyer as Receiver of the duties upon imported wines and liquors. John Usher was made Treasurer of incomes and revenues of the government, and Mr. Nowell, the Colony Naval Officer, was ordered to turn over his receipts and accounts, and presumably did so. Dyer probably occupied the Customs office on North and Richmond Streets; but what revenue he collected does not appear, or how long he exercised the duties of the office, though entries appear in England of the payment of his salary, and that of his Deputy.

December 20, 1686, Sir Edmund Andros, with a commission as Captain General and Commander in Chief, with Randolph as Secretary, arrived in Boston, superseded Dudley, and assumed absolute power. The people were subjected to a series of arbitrary measures, some plainly illegal, such as the levy of a poll tax and a tax for defraying the expenses of the government; and many persons who opposed these measures or refused to obey were summarily imprisoned.

¹ *Mass. Col. Rec.*, v. 516.

A violent but hopeless struggle followed, owing to Andros' attempt to forcibly establish Episcopacy and to enforce other drastic measures, which continued until the Revolution in England in 1688 and the accession of William and Mary, when the excited people of the Province rose in open rebellion, overthrew and imprisoned Andros and Randolph, and shipped them to England for punishment.

The long and dramatic contest with Randolph thus ended. It was only to a limited extent over customs matters, but his attempts to enforce strictly the navigation acts, and to curb the independent spirit of the Colony by hampering and restricting its trade and by interference with its collecting and spending its own revenue under Colony laws, did more than aught else to inflame the people, to rouse in their minds a realizing sense of colonial rights, and thereby to sow the seeds of future revolution. Combined with revenue questions was undoubtedly the bitter feeling roused by the opposition of the Puritan theocracy to the attempt of Andros to establish the English church in Boston; but that controversy was of later origin and of shorter duration than the long revenue fight.

A short period of calm followed while the people, exuberant in their loyalty to the new monarchs, looked hopefully forward to the renewal of their old Charter. While waiting for news from England, they resumed the Charter of Charles I, installed the officers elected before it was vacated, ratified the old colonial laws until formal action should be taken in England, and despatched agents to England to seek a renewal of the Charter of Charles I.

We have not been able to locate any customs house of the Colony during this controversy, and it was probably in the Town House where other colonial offices were; but there were numerous revenue appointments made under the various colonial statutes, and the officers were paid from the colonial treasury.

In 1691, contrary to the hopes and expectations of the people, the new Charter of William and Mary confirmed the establishment of the Province, with royal officers appointed by the Crown, and required submission to the Crown, for approval or rejection, of all laws made by the Province. This

requirement does not seem to have been complied with, for some Provincial laws were not formally submitted; but it is significant that one of prime importance was so submitted and promptly disapproved, being an act setting forth general privileges, and especially that "no aid, tax, tallage, assessment, custome, loan, benevolence or imposition whatsoever shall be laid, assessed, imposed or levied on any of their majesties' subjects or their estates, on any colour or pretence whatsoever, but by the act and consent of the governour, council and representatives of the people, assembled in General Court."¹

After the rejection of this, it is not easy to see how the Province could claim the right of independent legislation. Still the General Court did pass acts that were regarded as in force without the royal assent.

In 1692, Sir William Phips arrived with commission as Governor and *ex officio* Collector of Customs, with Benjamin Jackson as Deputy.

The situation then became involved; for in 1691 the king had also commissioned Jahlial Brenton, a native of Rhode Island, as his Collector of Customs, Surveyor and Searcher, at Boston. There was now an apparent conflict of jurisdiction between two sets of royal revenue officers; and the people appear to have recognized the Phips' appointment rather than Brenton's. In a letter to their agents in England they wrote: "Mr. Brenton, their Majesties' Collector, has been endeavoring to impose upon the government by obliging all masters of ships and other vessels to enter and clear with him, thereby burdening the people with unnecessary and unreasonable fees, of which complaints have been frequently made. We do not find any Act of Parliament requiring the same, there being nothing of the growth or produce of this Province from which any customs arise; and the governors of the several plantations are especially enjoined by law to take care that the acts of trade and navigation be duly observed under a severe penalty for their neglect." This is a little confusing, but seems to indicate that the Province rather relied upon its own officers to enforce the law, for apparently no custom houses had yet been established in the Province by act of Parliament.

¹ *Province Laws*, I. 40.

Brenton, becoming indignant at the cool neglect of his authority, proceeded to test the matter by seizing a vessel and cargo for illegal entry, and the result was an open quarrel between him and Phips, who claimed, by virtue of his Commission as Vice Admiral, the right to exercise Admiralty jurisdiction and that Brenton had overstepped the bounds of his office as collector. Upon Brenton's refusal to release the property, Phips took the law into his own hands, proceeded to the wharf, and assaulted Brenton while discharging his duties as collector, and took the vessel and cargo out of his custody.

Following this rather high-handed proceeding, Brenton and Captain Short, commanding their Majesties' frigate *Nonesuch*, filed a complaint against Phips, and he was summoned to London for explanation. Before leaving, he attacked the Captain, broke a cane over his head, and committed him to prison; then departed with Brenton to carry the contest before the home authorities, but no definite result was reached, as he died in London in 1695. So far as the people were concerned the situation must have been rather to their satisfaction; for while definite action was suspended, they were left to go their own way in the matter.

We do not find mention of any other royal collector until 1707, when John Jekyll held the office and continued in it until 1721, being succeeded by his son John, who was collector until 1740. During this period, Parliament passed other revenue laws applying to the Province, and in 1718 the Provincial legislature passed an act levying a duty on West India goods, wines, etc., and upon English manufactures and English ships. This, apparently, was in direct contravention of the provisions of the new Charter, and if duties were collected under it, it must have been by a Provincial collector; for it is hardly conceivable that the royal collector, Jekyll, could have recognized its legality. It further appears that the king issued instructions in 1719 withholding consent from all bills imposing duties on English goods and the Council after long controversy with reference to disregarding the instructions, waived the matter, and English goods were thenceforth admitted free. In fact, about this time the tariff showed signs of becoming a local issue, for the Province having passed an

act imposing duties, Boston protested on the ground of local injustice and demanded obedience to the King. How long after this a provincial custom house was maintained is not clear, but as late as 1757 one existed in Scollay Square, upon the site of the building afterwards known as the Scollay Building.

Phips' successor was William Stoughton, and after him came the Earl of Bellomont. Before the latter's arrival in April, 1698, the Council of Trade and Foreign Plantations was replaced by a Board of Trade known as the Lords of Trade, and they continued in power until the opening of the American Revolution. Officers of the revenue were now given the same powers as those in England; new restrictions were placed upon the trade of the Province; the paramount power of Parliament was more strongly asserted; all Provincial statutes, past and future, in conflict with these powers were declared void; and, to make things more offensive to the Province, Randolph was again made Surveyor General.

The people indignantly protested against these acts, and asserted their rights as Englishmen; but there were no open outbreaks.

Bellomont was succeeded by the unpopular administration of Joseph Dudley; and after him came successively Governors Shute, Dummer, Burnet and Belcher. Their administrations were anything but harmonious; but in the absence of complete records, it does not appear that the controversies were over customs matters, except for the excitement caused by the Molasses Act of 1733, which, by imposing a duty upon that article inflicted a serious blow upon the large business of the Province in the manufacture of rum. There were bitter opposition and much disturbance of business; but fortunately the enforcement of the act was somewhat lax. The Declaratory Act of Parliament of 1740, under which the Land Bank and Specie Bank were suppressed, also aroused bitter opposition, the Province claiming that Parliament had exceeded its powers. Both of these acts were contributing causes to the Revolution following. Though the people had been, by the Charter of William and Mary, deprived utterly of rights dear to them and which they believed were legally theirs, they accepted the situation in a sullen way, and whatever discon-

tent there was, beyond that above referred to, manifested itself largely in contests between the legislature and the royal governors over the demand of the latter for permanent grants of salaries, always steadily refused for a longer period than one year, over currency matters, and with reference to the general powers of the royal government in religious and other matters not connected with the revenue.

December 2, 1741, Sir Charles Henry Frankland, whose romantic story was an interesting episode in Provincial history, was appointed collector, and William Shirley, governor of the Province; this being the result of a compromise, Shirley having originally sought the position of collector. Frankland's administration was a brief one and a dismal failure, for he was soon removed from office for inattention to his duties. The custom house was then in the Frankland mansion on Bell Alley, corner of Prince and Garden Court Streets; and the governor's son, William, was Naval Officer.

Shirley was Governor from 1741 to 1757, and his administration was a notable one and upon the whole a popular one in the Province. During its continuance the religious controversy between Whitefield and Edwards excited much interest; the war with France in 1745 and the capture of Louisburg by the allied British and Provincial forces occurred; great feeling was aroused by the impressment of seamen; and the French war of 1756 was fought which served as a training field for the men of the Revolution.

Shirley figured as a warm friend of the people, and with considerable success, as he instigated some measures of benefit to their navigation and commerce, and gained popularity by the French wars and the prominent part taken in them by colonial troops, particularly at the capture of Louisburg; but he played a double part as to measures for taxing the Provinces. His correspondence — made public later¹ — shows that he was the first to urge upon the authorities in England a definite revenue system to be applied to the Provinces, the proceeds to be disposed of by Parliament for expenses attendant upon the defence of the Province. In 1749 he wrote to England suggesting the erection of fortresses and the imposition

¹ See *Correspondence of William Shirley*, edited by C. H. Lincoln, published in 1912.

by Parliament of a tax for their maintenance, and in 1755, under his advice, a resolve was adopted in Parliament to "raise funds by a stamp duty and a duty on the products of the West Indies imported into the Continental Colonies." This resolve was followed by an indignant protest from Massachusetts and by immediate instructions to her agent "to oppose everything that shall have the remotest tendency to raise a revenue in the plantations for any public uses or services of government," meaning, of course, the British government.

No positive action was taken in England upon this resolve; but it marks the first step towards internal taxation, made more palatable by the promise of applying the proceeds to the expense of Provincial defence.

There was great unrest in the public mind, increased by excitement over the impressment of seamen by the British; but in the absence of knowledge of Shirley's double dealing, there was no actual outbreak. In fact, the attention of the public was pretty thoroughly absorbed by the events of the first French war.

The site of the royal custom house, if there was one during this period, does not appear; but the records show that in 1757 William Sheafe succeeded John Jekyll as acting royal collector, and occupied the position until September 25, 1759, when Benjamin Barons succeeded; and upon his resigning, George Cradock was appointed and occupied as a custom house the house of John Wendell at the corner of Court and Tremont Streets, where the Hemenway Building now stands. Sheafe appears to have held the office under appointment from John Pogram, Surveyor General of Customs, then supreme head of the customs authorities.

In 1757, Shirley was succeeded by Thomas Pownall, during whose administration Quebec was captured by Wolfe; and in 1760 he was followed by Francis Bernard, with Thomas Hutchinson as Lieutenant Governor and as acting Governor in 1769, upon Bernard's departure for England.

The feeling which had slumbered for years now began to openly manifest itself with the renewed movement in England to tax the Provinces. In November, 1760, under Bernard, the issue was forced by the determination of the Crown to

insist upon a more stringent enforcement of the navigation acts and by the order issued by Charles Paxton, the Surveyor General of Customs in Boston, to James Cockle, the Collector of Customs in Salem, to apply for writs of assistants.

Paxton had long been a leading spirit on the royal side, and by his arbitrary acts had made himself very obnoxious to the people. John Adams described him as "the essence of taxation and revenue."

The writs appear to have been actually issued to William Sheafe, then acting as collector in Boston in place of Cradock, Paxton's part in the matter being the order to Cockle to apply for their issue. They were not altogether novel writs, somewhat similar ones having been issued in Charles II's time, naming special buildings or places, but the scope of these new ones was enlarged, giving general power to customs officers to invade any houses or dwellings without naming them, in search for smuggled goods, and to call upon the people as a *posse comitatus* to assist.

The earlier colony laws had given somewhat similar powers to colony officers, and under the federal tariff acts since the adoption of the Constitution we find like powers; but it was an inopportune time to extend or enforce royal authority upon a people already restless and excited.

An immediate appeal to the courts followed, and the dramatic and notable scene when James Otis, in the height of his popularity, resigned the office of Advocate General to appear, with Oxenbridge Thacher, for the people before Chief Justice Hutchinson and the full court to argue against the legality of writs. The cause was lost before the court, but the impression made by the bold argument of Otis was profound, and the principles he outlined led straight to the American Revolution.

January 4, 1762, we find Sheafe acting as Collector with Benjamin Pemberton as Naval Officer, under Commissions from John Temple, Surveyor General; but on May 28, 1762, Roger Hale succeeded as collector. Again the scene shifts to matters of internal revenue by the news which arrived in Boston in 1764 of the passage of the Stamp Act. Early in 1763, Charles Townshend had introduced an act in Parliament to raise a revenue in the Provinces. This act failed; but

later a hardly less obnoxious act passed, requiring British officers of the navy to act as customs officers, and giving them a share in the proceeds of cargoes confiscated for violation of revenue laws.

Grenville then became head of the Treasury, and the ball opened in earnest. In September, 1763, the Stamp Act was passed and orders given to the military to assist revenue officers in suppressing contraband trade.

In 1764 Jenkinson's bill for a duty on molasses and white sugar was passed, renewing the old act of 1733 and providing that the proceeds should be paid over to the royal treasury. Bernard reported that the act caused greater alarm than the taking of Fort William Henry by the French. The menace to the liberties of the people now became clear, and revolt everywhere filled the air. The Sugar Act was bad enough; but the Stamp Act brought things to a head, for in the latter was the assertion of the right to impose internal as well as external taxes. Organizations of Sons of Liberty sprang up; stamp officers were threatened and maltreated by mobs; the people refused to use the obnoxious stamps or to allow of their sale; clearances with stamps on them were publicly burned at noisy gatherings and the laws everywhere obstructed. Upon the arrival of the decree as to the Stamp Act, a serious riot occurred, March 9, 1764, in Boston. August 26, 1765, the fine mansion of Lieut. Governor Hutchinson upon Garden Street was sacked and ruined; the house of Benjamin Hallowell, the comptroller, was gutted of its contents; the lives of the revenue and stamp officers were put in the greatest peril; non-importation agreements were numerously signed, in some cases by compulsion, and the whole town of Boston was in a state of virtual revolution.

To keep the sequence of events, it is well to note that on March 17, 1765, Edward Winslow, Senior, was appointed by Temple, Surveyor General, to be Deputy Collector at the port of Boston, to reside in Plymouth; July 22, 1766, Byfield Lyde, Deputy Collector, by Charles Paxton, Surveyor and Searcher of all rates, duties, impositions at Boston; June 17, 1768, Robert Hallowell, Deputy Comptroller; that on October 28, 1766, Joseph Harrison was appointed royal collector in Boston, and he opened the first royal custom house in Boston

equipped with a full staff of officers, in a building used by Bartholomew Green as a dwelling house, at the southeast corner of King (State) and Exchange Streets, where it remained until the port was closed in 1774; and that, September 14, 1767, the British Parliament passed an act reorganizing the Provincial custom house system and establishing a Board of Commissioners of Customs for America, to sit at Boston, composed of well-known opponents of popular views and presided over by Charles Paxton — the collector's force being subordinate to this Board.

Henceforth the British authority was asserted in the most offensive form. Burke in his address upon the *State of the Nation* says, "Men of war, now for the first time armed with regular commissions of custom house officers, infested the coasts and gave to the collection of revenue the air of hostile contributions." No less than twelve British ships of war, with two hundred and sixty guns, assembled in the Boston harbor to enforce the Stamp Act and other revenue laws; the people were threatened with severe punishment for trivial infractions of such laws; and thoughtful men everywhere began to consider the possible results of the high tension existing.

The revenue officers, already unpopular enough, increased the feeling of hatred and opposition by acts unnecessarily arbitrary and savoring of corruption. Even in Parliament, Colonel Barré called attention to this state of things, and said that "to his certain knowledge some were promoted to high office (in America) who were glad to fly to a foreign country to escape being brought to the bar of justice in their own." How far this was a correct statement of fact cannot now be ascertained; but whether true or false, it was the belief here and in England too, and all tended to increase the bitterness. The Stamp Act forbade the clearances of vessels without the royal stamps, and no vessels lacking them could pass the Castle; but before the act went into effect all vessels' papers that could possibly be obtained were secured in advance and, on the plea that stamps could not be procured, the customs officers were compelled by force in some instances to issue passes.

Early in June, 1768, John Hancock's sloop, well named the *Liberty*, arrived from Madeira with a cargo of wine, and pro-

ceeded to unload at Hancock's wharf without customs permit; and the captain even went so far as to lock up the protesting customs officers in the cabin. A few pipes of wine were entered at the custom house as the whole cargo; but this very palpable evasion of the law did not suffice, and the Collector, Joseph Harrison, and Comptroller Hallowell seized the vessel. A mob quickly gathered; and the authorities, fearing violence, towed the sloop for protection under the guns of the frigate *Romney*. A riot followed, during which Collector Harrison and his son Richard A. and the Comptroller were badly beaten, a large custom house boat belonging to the collector dragged to Boston Common and burned, and the houses of many of the custom house officials stoned and badly wrecked. The custom house officials, fearing for their personal safety, fled to Castle William, and prolonged negotiations with Governor Bernard followed, but the matter was finally adjusted, and the fugitive officials returned and occupied a customs office at Concert Hall near Hanover Street, with British sentinels posted at the door.

General Gage, Commander-in-Chief of the British forces in America, immediately ordered British troops to Boston. Then followed the tea acts, imposing a duty on all teas imported into the Province, and the acts providing for the appointment of officers and judges by the king and for the payment of their salaries from England; and, almost coincident with them, and increasing the already high tension between the royal customs officers and the people, came, in September, 1769, the dastardly attack upon James Otis in the British Coffee House on King Street, by John Robinson, a Commissioner of Customs, aided by British officers.

This outrage upon Otis grew out of strictures he had published upon the customs officers, and resulted in practically ruining his health and incapacitating him for future usefulness. The vast popularity of Otis rendered this attack a singularly ill-timed one for the royal officers, and incensed Otis' numerous friends so deeply that violence was threatened and the authorities with much difficulty avoided a serious outbreak. Otis recovered judgment later in heavy damages against Robinson, but refused to accept them upon the latter's making full apology.

Revolution was now clearly threatening, and the widening chasm became painfully apparent even to those who hoped that the contending parties might yet be harmonized.

March 5, 1770, occurred the so-called Boston Massacre, when the British troops in State Street fired upon and killed a number of the people. This took place in front of the custom house; and while it did not arise directly from revenue troubles, it was another proof of the bitter feeling towards the customs authorities and towards the military as their supporters. To the credit of the Province, the commander of the troops and most of the soldiers were acquitted of murder in a trial in the criminal courts.

When the tea cargoes arrived in November, 1773, the owners did not dare, or were not permitted, to pay the duties; a clearance for the vessels to return with cargoes untouched was demanded of the collector, Richard A. Harrison, who had succeeded Joseph his father, but was refused. Governor Hutchinson also refused a permit to pass the Castle, and thereupon the tea riot of December 16, 1773, followed, when the tea was emptied into the harbor by an uprising of the people.

So bold a defiance of the law could not be allowed to pass; and General Gage, who had been appointed Governor of Massachusetts, landed at Boston in May, 1774, and took steps to enforce the royal authority. He was cordially received, as far as external demonstration was concerned, and took up his official residence in the Province House.

The news of the destruction of the tea and of the rebellious temper of the people of Boston caused great excitement in England, and was followed by the passage of an act in Parliament closing the port of Boston and ordering the removal of the custom house to Salem.

In accordance with this order, June 1, 1774, the port of Boston was formally closed; and we find from the records at Salem that offices were procured and that the Commissioners removed there. The following letter from the Commissioners of Customs at Boston to the Customs authorities of Salem appears of record:

GENTLEMEN:

Having directed our Secretary to proceed to Salem to prepare proper office for the reception and accommodation of this Board

and their offices, we direct you to give him every assistance in your power therein.

We are Your loving friends,

CHARLES PAXTON.

WILLIAM BURCH.

HEN. HULTON.

CUSTOM HO., BOSTON, 20 May, 1774.

Under the same date, however, appears the following notice in the *Boston Evening-Post* of May 23, 1774:

The Commissioners of His Majesty's Customs hereby give notice, that from and after the first day of June, 1774, the officers of the Customs for this Port and Harbour will be removed from the Town of Boston to the Town of Plymouth, within the limits of the Port of Boston; then and there to proceed to carry on in the usual manner the Business of their respective Departments, in the Collection and Management of His Majesty's Customs and the Execution of the Laws of Trade; and no officer of the Customs will be permitted to remain in the Town or Harbour of Boston from and after the first day of June next, during the continuance of the said Act.

By Order of the Commissioners,

SAMUEL MATHER,

Pro Secretary.

CUSTOM HOUSE, BOSTON, May 20, 1774.

In the same paper of June 6, 1774, it is stated that "All business at the Custom House was finished last Wednesday [June 1] at 12 o'clock, and the officers of the customs the same afternoon went for Plymouth, where the office will again be opened." And again: "No Custom House, Boston, June 4, 1774."

The *Gazette* of June 6, 1774, says: "The harbor is shut against all vessels bound hither, and on the 15th none will be allowed to depart hence."

In the issue of June 13, the *Post* says: "The Commissioners of the Customs hold their Board in the Town of Salem."

The following letter throws some light upon the precise action taken:

EDWARD WINSLOW, SR., TO WARD CHIPMAN.

HALIFAX, 26th Sept. 1783.

When the Port of Boston was shut up, the Collector, Comptroller and other officers of the Customs at Boston were directed

by the Commissioner to remove to Plymouth with their books, papers, &c., and to open their office at Plymouth, &c., and my office as Coll'r for the Port of Plymouth was to cease until the Port of Boston should be again opened, which was then expected would be the case in a very short time.

On the 3rd day of June 1774, the Custom House books and papers, &c., were removed from Boston to Plymouth, and the Custom House business carried on by Mr. Harrison, Halloway &c. which was heretofore transacted by me, and so continued to do business until the 1st of October, 1775, during which time I provided for them an office, fuel and candles, which with the fees received for the Collector (which I had the promise of being made up to me) amounted to more than three hundred pounds sterling. On the 12th day of September, 1774, Mr. Harrison, the Collector, gave me his note of hand for fifty pounds sterling per ann. for doing his business until the Port of Boston should be again opened. Altho' I do not expect him to pay me until the port of Boston was again opened, yet I think he can have no objections to paying me for transacting his business from the 12th of Sept. 1774 to the 12th of October, 1775, during which time I transacted his business, he being absent, amounting to £54.3.4.

There appears to have been a division of authority, the Commissioners going to Salem and the working force to Plymouth, where, as has heretofore been stated, Edward Winslow, Senior, had been appointed, March 27, 1765, Deputy for Boston to reside at Plymouth and was also acting as Collector of the Port of Plymouth. An examination of the customs records at Plymouth shows the pages for 1774 all cut out, and it is more than probable that this was done by Winslow and that they were destroyed by him or carried away when, as a Tory, he fled from Plymouth to Halifax upon the evacuation of Boston.

In a letter of Winslow's in 1788¹ he says that when he was deprived of his office in Plymouth, the records were demanded of him, but that he secured the records and they remained in safe custody until the war was over and were then delivered to his successors in office. If this was the fact, they have since disappeared.

It is quite apparent that the division of customs forces was not a success. The people of Salem were deadly hostile,

¹ *New Brunswick Hist. Soc.*, Winslow Papers, 363, 503.

and would neither enter nor clear vessels except upon compulsion, and the merchants and freeholders there protested to Governor Gage that neither Salem's location nor harbor was suitable for a chief port of entry and distribution.

After experimenting a short time at Salem and Plymouth, with small results, the Commissioners returned to Boston the last of September, 1774, although that Port was officially closed; and on October 1, 1774, the working force at Plymouth also returned to Boston. The Salem office seems to have been discontinued in September, for the Commissioners there granted parties in Salem permission to occupy the building, and a letter of October 24, 1774, from Salem stated that early in the month, after the Commissioners had vacated, the customs building in Salem was blown up to prevent the spread of a conflagration.

The last royal collector in Boston was Edward Winslow, Senr. Judge of Probate for Suffolk County, who just before the evacuation of Boston was appointed by General Gage to fill the place of Collector Harrison, who was absent; and Winslow was in control when the British troops departed for Halifax. Soon after the evacuation, General Benjamin Lincoln erected batteries on the islands in the harbor, and drove off the remaining British vessels.

By order of General Gage, of September, 1774, the Massachusetts General Court was convened at Salem, October 5; he subsequently revoked the order and discharged all representatives from attendance, but a majority assembled at the time and place fixed in the original order, and, in the absence of the Governor, resolved themselves into the Provincial Congress of Massachusetts, with John Hancock as President and Benjamin Lincoln, Secretary, assuming authority over the collection of revenue in any form so far as the situation then permitted, and James Russell, Impost Officer, was ordered to pay over to Henry Gardner, the Provincial Receiver General, all impost money in his hands. In June, 1776, the Provincial Congress made formal entry upon their records of the reopening of the port.

The tradition that the pre-revolutionary customs records were carried to Halifax upon the evacuation of Boston is probably an error, as it is not known what became of them.¹

¹ 2 *Proceedings*, XII. 192; XLIII. 423.

The war following practically destroyed foreign commerce for a time, and if any customs authorities existed between 1776 and 1781, their occupation must have been nominal.

In 1781 the Massachusetts Provincial legislature passed an Act creating a Naval Office, and in 1783 and 1784 fixed the fees and duties. Feb. 6, 1782, Samuel Henshaw was appointed Collector, and on June 28, 1787, James Lovell. From 1786 to 1788, Thomas Melville, one of the Tea Party of 1773, was Naval Officer, but all the officers were under the direction of the Comptroller-General, Leonard Jarvis, until the appointment of collector under the Federal Constitution.

From 1783 to 1789 customs duties were collected by the State authorities, but no records appear in existence.

August 4, 1789, Benjamin Lincoln was appointed as the first federal Collector, with James Lovell as Naval Officer, and the custom house was established on State Street near Congress Street, opposite the site of the royal custom house.

This rapid and necessarily incomplete glance at revenue legislation and revenue troubles from 1630 to 1775 shows how continuous the struggle was between the royal authorities and the people of the Colony, and its varying phases. In the colonial period it was very acute at times, and the independent spirit of the people was more evident then than in the earlier part of the Provincial period; but through both periods the continual agitation and restlessness over revenue questions in their varying forms steadily led to revolution, and while there were other co-operating causes none were so constant or so connected with scenes of violence and disorder, and none furnished such plain object lessons.

I am not disposed to deny the importance of the religious controversies, the struggles for political rights, or the contests over currency matters or the Land Bank question. Ultimately they might have produced the same results, but those questions dealt less with the concrete than the abstract, and it seems clear that the commercial grievances and disputes more immediately inflamed the passions of the people, touched them in more sensitive spots, created personal hatreds, and led more directly to rebellion and independence.

Mr. FORD read portions of a paper on

MANUSCRIPTS ON AMERICAN HISTORY IN ENGLAND.

In either the Public Record Office or the Manuscript Room of the British Museum the earnest student may profitably pass years of investigation; and the material seems inexhaustible, receiving constant additions for almost every period of history since the Norman occupation. Recently some thousands of Port Books, registers of entering and departing vessels from the different ports of the Kingdom, and extending to the seventeenth century and beyond, were gathered into the Record Office, and will, in due time, become available for study. Not only is the mass of the material in these depositories great, but the quality is high; and when the line of 1774 is crossed, age begins to produce its effect. "Time out of mind" is a true description. The University of Oxford has never removed since 1264, or about six hundred and fifty years ago. For that period of time the archives have accumulated, and well may the present keeper mourn the "fatal inability of keepers to destroy things when they are done with and to refuse to accept papers which do not concern them."¹ Our earliest collections begin with 1620, and that is an exceptional date. In Great Britain institutions, cities, towns, corporations and even families, afford many examples of records from the fourteenth and fifteenth centuries.

It must be remembered that the great collections are still in private hands. Vast as is the mass of material in the Public Record Office and British Museum, the material outside of those depositories is much vaster. Hardly a house of historical eminence is without its muniment room, often used for general storage purposes and containing treasures of manuscripts little known, or if known, little considered. Hardly a town or city without its records, more or less neglected, or if cared for, unexamined by the student. Professor Wallace's discoveries of documents illustrating Shakespeare's time and career offer a good example of what follows when an earnest and expert worker is turned loose in undigested material. The accidental, but none the less happy discovery by Mr. Waters of Winthrop's ms. map of Massachusetts in the

¹ See Reginald L. Poole, *A Lecture on the History of the University Archives*, 1913.

British Museum,¹ may serve to show that even in documents long under the best of care (and nothing could be better than that of the Museum) splendid opportunities for discoveries offer. In the British Museum are a number of volumes of the papers of John Wilkes, whose cause appealed strongly to some in New England. In examining them I found letters from Thomas Young, William Palfrey, Joseph Warren and Benjamin Church, and one address sent from Boston to Wilkes signed by James Otis, Samuel Adams, John Hancock, Richard Dana, Joseph Warren, Benjamin Church, Jr., Benjamin Kent, John Adams, Thomas Young, Josiah Quincy, Jr., a combination of signatures so notable that I could not forbear to call the attention of the courteous assistant keeper of the manuscripts to it, and speak of its autographic value.² For years important documents thus escape identification, awaiting the coming of one who can explain their importance and prove their value.

The Royal Historical Manuscripts Commission performs a most useful function in making known these collections in private hands. It locates, arranges and calendars this hitherto practically unknown material, and from garrets, cellars, outhouses and libraries it draws the documents which make up its valuable volumes, of which one hundred and sixty have already been printed. Clothed with ample authority, and proving that it exercises that authority with discretion and consideration, these historical collections are being opened to its agents and discoveries have ceased to form the note of the reports. Given any collection, something of historical import must come to light. I may mention that recently in the Bathurst papers were found some twenty volumes of the papers of Miranda, that adventurer whose career is not without interest to us. How they fell into that collection, where they are decidedly eccentrically placed, no one knows. Some chance turned them there, and there they have remained buried for nearly a century.³

Such eccentricity of location offers ground for the highest

¹ *2 Proceedings*, I. 211.

² These documents are now being copied.

³ The secretary of the Commission, Mr. A. E. Stamp, called attention to this discovery, and expressed the wish that the American portion might be made available by some publishing institution in the United States.

hopes of future discoveries, as the storage places yield to the activities of the MSS. Commission. No one has studied sources of the history of any period without becoming aware of gaps in the record, and often gaps of such size as to defy the construction of a story whose parts will hold against criticism. I would mention as of late experience, the financial relations existing between the Plymouth Plantation and the English partners. The material sufficient to tell the story in outline is not now available, and conjecture on what is known would not afford a secure foundation. The instances can be multiplied, and some have peculiar pertinence to the present activity of this Society. Where are hidden the records of the London Company of Virginia? Sir Ferdinando Gorges collected a mass of MS. maps, records, letters and ruttiers, or sailing directions, derived from ship captains and others who had made the voyage to America in the first thirty years of the seventeenth century. The records of the English courts are just beginning to be known, but have already yielded rich returns to the earliest history of the colonization of New England. As illustration may be named the paper in the suit against Rev. John White (*Proceedings*, XLIII. 493), the letter of William Bradford (*American Historical Review*, VIII. 295), the letters of John Bridge and Emanuel Altham (*Proceedings*, XLIV. 180), the brief in Andrewes and Beauchamp against Sherley (*Ib.*, XLV. 611), and finally, the complaint of John Peirce, to whom the first patent for the Leyden congregation was issued (*N. E. Hist. Gen. Reg.*, LXVII. 148).

Is it not probable, something more than possible, that the early letters, plans and journal sent by John Winthrop to his wife and friends in England in the first years of the Massachusetts Bay settlement, slumber somewhere with unrelated material which has concealed their very existence? Was Thomas Dudley the only man to relate in a letter the experience of a year's life in the plantation, and at a time when a letter was an event of some importance, being solemnly entrusted to the care of God, along with ship and bearer? Did not the non-conformist clergymen who found refuge in New England maintain a free correspondence with their fellow sufferers in England, some with a hope that by a change in conditions they might return to their former churches? The

questions multiply without limit, and to each lies a possible answer dependent upon the finding of a dust-covered package of letters the very existence of which has been forgotten for more than two centuries.

A wider and a more certain field for investigation offers in that fruitful field of British diplomatic history — the international relations of the kingdom — now Empire. Of this I had startling proof. For working in the Foreign Office files I was often nonplussed by the absence of links in the chain of evidence, and the omissions were too vital to escape attention. At last I found the explanation. In the despatches from George Canning to Charles Bagot, then the British representative in Washington, I read one in which Canning sharply rebukes Bagot for sending as an official and regularly numbered despatch a detailed account of a conversation held with John Quincy Adams, then Secretary of State. That report, said Canning, should have been sent to me as a private letter; and the despatch was returned to Bagot to be cancelled in the official series, and after rewriting to be sent to Canning personally. There thus existed the rule that certain matters, and often the most interesting, must be treated by diplomatic agents in a form other than official, or intended for the official files. Outside of the Foreign Office exists this mass of private letters, only lacking the form of despatches to be official in their contents. The best history does not lie in the Foreign Office, but in the papers of the various men who have held the office of Foreign Secretary or Prime Minister. The inside history of diplomatic relations between the United States and Great Britain may be surmised, perhaps told in its broad outlines, from the official archives; the tinting and shading needed to complete the picture must be sought elsewhere. In reading the earlier printed papers in English foreign policy, as found in the Cecil and Grenville papers,¹ I was under the impression that the older officials merely kept those despatches, the distinction between public and private papers not being well recognized. The impression rested upon a false explanation. For centuries it has been the practice of the Foreign Office to encourage, nay even to insist upon, this more private correspondence between an envoy abroad and his chief at home.

¹ Printed by the Historical MSS. Commission.

The EDITOR submitted the following petition in the collection of Mr. CHARLES P. GREENOUGH:

PETITION OF CHRISTOPHER LAWSON, 1669.¹

The Court records of Essex County contain frequent mention of Christopher Lawson. In 1643 he brought suit against John Smart, for cause unknown, and in the same year he was charged by others with extortion. On a third occasion in that year he is fined for stealing money from Edward Thomson, and is in that entry described as of Wenham. In August, 1644, he presented a petition "concerning Thomas Wight of Exeter that testators might appear *viva voce*," and in 1645 he brought suit against Clermont Campion, at Dover, to recover a debt of £8 for two thousand pipe staves. He became later involved in defamation suits and in engagements to deliver lumber or staves.

Christopher Lawson is believed to have been in the service of Thomas Purchase, who settled near the foot of Pejepscot Falls, and is regarded as the "first and only settler for some years above the Sagadahock." So Lawson is described as the "first and pioneer settler on the Kennebec."² He purchased land of the Indians in 1640, about a thousand acres, at Whisgeag, or Whisby.³ In 1662 he served as one of the trustees of Ferdinando Gorges, Lord Proprietor of the Province of Maine.⁴ In the year of his petition he fell in disfavor with the authorities of York County, for he was sentenced to sit one hour in the stocks for coming "into this Cort car[ry]ing himself unseveley towards som partickilar members, saying that He or they should not be his Judges, with a Turbulent behaviour towards the said Cort."⁵

To the honored Court of Assistance sitting at boston the 2nd of first mo: 1668-69.

The humble petition of Christopher Lawson prisoner humbly s[h]eweth

That your honors prisoner having married to wife Elizabeth James about thirty [yea]res since the which elizabeth was then a

¹ In the *Mass. Archives*, ix. 58, 59, will be found two other papers on Lawson's case.

² *1 Collections Maine Historical Society*, III. 317.

³ *Ib.*, II. 204.

⁴ *2 Ib.*, IV. 247.

⁵ *Ib.*, I. 374.

seruant to M Scott of this towne: with whome I lived about the space of ten yeares in the which time shee was a woman very full of discontent: shee declaring it was by reason shee could not goe to england to Uisit her friends: At Length I granted her Liberty to goe for england shee promising to returne with what Convenient speede shee could: And for this I furnisht her with seuentie pound in money besides other necessities for her comfortable accomodation at sea: but shee the said elizabeth being by the providence of god safely arived in england did there Commence A needles suit at law against her brother very much to my damage: And after that did disowne her selfe to be a married wife & as a seruant waited on a Lady: And I having waited here about ten yeares patiently expecteing the returne of my wife which Came not: I went my selfe to england in the yeare fifty sixe to seeke for her: And by gods goodnes being safely arived at London: and hearing where shee was by some of this place I sent for her by one to Let her know there was one come from her husband and Children: to whome shee replied shee had no husband: however shee said shee would come and see the gentleman: but when shee came and saw mee there shee flew out as in a greate passion disowning mee to be her husband: Then I sent two antient motherly women to the house of the aforesaid Lady where shee then Lived, and they declaring the case to the said Lady: shee was so courteous as to exhort her to her duty: And compeld her to come to me by order of authgrity there: Then she liued with mee about the space of two months: And at a season while I was abroad in the City about my buisnes shee went away from my then Lodging carrying away all that I had there and tooke up her abode in a by place in Southwarke among uery suspitious and ill respected people: and at the same time tooke up vpon my Credit from one merchant the sum of three hundred seuentie pound whereupon after diligent enquiry I found out her lodging and having compounded with the foresaid merchant: hired her then againe to live with mee & to come with mee to newengland: but in our uoyage hither the ship stopt at plymouth and the ship being anchored: Captn Rea then Commander of the Iland there with seuerall other gentlemen came aboard to uisit mee and others: I then taking out a bottle of wine to accommodate them shee violently laid hands on mee and scratcht mee by the face uery much to my discredit before those gentlemen: shee likewise Challenging mee to trye who was master: upon which I threw her downe on the deck: Captn rea then saying that if I would giue Leaue he would haue her ashore and cause her to be as well duckt as euer was any in plymouth moreover at sea shee told the seamen that the ship should not come to newengland but arive at some other

porte: and that the ship should be afire: so accordingly the ship was forced to the barbados and was on fire at sea: to our greate afrightment and damage: upon which the seamen and passengers called a Councel amoung themselues and would haue throwne her over boarde had I not used much entreaties with them and likewise gave them a case of english spirits to save her Life: but after a tedious and troublesome passage through gods goodnes wee ariving here at boston: shee made it her buisnes to conuey and hide away what shee could of my goods And endeauored to trouble mee with seuerall warrants shee had then procured from some of the magistrates here: And having a meeting at Captn Lake his house¹ about the forts where was Captn Lake Captn Allin Captn breeden² and Mr. Sherman minister:³ shee then came in with a warrant & uery much abused mee with unbecoming words reviling mee exceedingly: And hauing gotten what shee could from mee: shee then absented her selfe againe from mee: Though then I lived in this towne: so that I and my seruants were Left alone shee taking up her abode in some other house at that time: A while after I and my seruants went to Kenibek where I was forced to Live alone without the comfortable society of a wife though I had used my utmost endeauors to procure it: Then after the space of two yeares: I came hither againe and with uery much trouble both to my selfe and to Captn Clarke and Captn Lake I at last hired her to goe & liue with mee againe so wee Lived together peaceably about the space of ten or twelue weekes & then shee absented her selfe againe and dwelt to and fro at other houses in this towne Contrary to my desire and without my Leaue: Then my occasions Called me to Liue at Piscataqua where I and my seruants went then A while after I prevailed with her to Come and Liue there with mee where wee Continued about three quarters of a yeare in which time wee with Joynt consent intended to goe Liue at Kenibek so I went before to provide a Comfortable accomodation for her and the rest of our familie I promising to send a barque to bring her and my goods and familie: Whereupon I hired Mr. Abraham Josling and his barque for which I paid eightene pound in good pay: but when the said Mr Josling ariued at Piscataqua he found her not: for shee had in the meane time shipt abroad Mr. Elias Parkman my seruant henry Cowly which was appointed as A master by mee: with all my houshold goods as pewter brasse bedding and all other necesa-

¹ Captain Thomas Lake died in 1697, possessed of a lot sixty feet square near the Charlestown ferry.

² John Allen and Thomas Breeden. The three men had been associated in the La Tour affair. ³ *Mass. Hist. Collections*, vii. 120.

³ Rev. John Sherman, of Sudbury.

ries and all my wearing Cloathes and working tooles and prouisions and trading goods: as shooes stockings woollen linen nailes powder shot moose and beuer and bills and bonds and bookes of accounts so that I was left bare and destitute and in so much distracktion that I was not fit to serue god or man: only one of my seruants namely John Selleck Came from thence to mee at kenibeck and informed mee I was Cheated and undone by my wife for shee had carried all away to boston: now in this condition I have Liued almost this eight yeeare having made use of all my friends as Captn Clarke Captn Lake mr Collicot and seuerall others for to [see] if they could preuaile with my wife to come and liue with mee I also writ to some of the mag[istrate]s and elders but their answeere was they pity mee and pray for mee but no hopes of p[re]uailing with my [wife] to c[o]me to mee for they seldome met with a woman of her temper.

now after almost eight yeares time I having a little recoverd my spirits from this state of distraction before mentioned: I came againe to boston in december Last and Landing here on a Lords day in the morning I had recourse to my owne house¹ being both wet and cold and there found as cold entertainment for when I knockt at the doore my wife opened the doore but seeing mee shut it againe with Uiolence and opening a window shee reuled mee Calling mee rogue and whoremaster and murtherer telling mee I had the french poxe and were come to serue her as the Cardmaker did his wife and I Came to murther her in her owne house: I gave her Civil Language desiring I might have some Cloathes to shift mee but shee had mee goe like a rogue as I was: but many people being by Cryed out shame on it: and Atleast four dayes after many neighbours Coming to goodman buttons² house: they told him they thought the woman was dead or had made away her selfe for they had not seene her or obserued any fire to have been in the house for those four dayes: there being also some pigs which they thought would be starued some of those neighbours having also knockt at the doore Could get no speech of her: of which some of the said neighbours meeting mee did informe mee: so I went with some of

¹ Lawson took a grant from Thomas Buttolph of a parcel of land in the Mill field [near Mill or Copp's Hill], containing four and a half acres, bounded by the Bay on the north east, the properties of Nicholas Parker and Valentine Hill on the north west, and that of Christopher Stanley on the south. This he held in 1645, as shown by the *Book of Possessions*. He received liberty to build a wharf in 1645. In 1648 he conveyed his dwelling house near the ferry, about three-fourths of an acre of land and one-half the wharf to Thomas Ruck, having built a new house on another part of his land; but this house he sold in the same year to Thomas Lake, and may have built a third, or held the occupancy of one of the two known houses.

² John Butten, proprietor of the windmill on Mill Hill.

the neighbours and knocking at the doore could get no speech of her: so I lifted one doore off the hinges and come to another doore which was also lockt: And then shee spake saying doe you Come to murther mee in my house and have you a Constable then shee opened the doore: and used many reviling words Calling us theeves and robbers: and then shee went to the honored governour and procured a warrant so coming downe with the marshal wee were both required to repaire to the governours house where were present two more of the honored magistrates namely maior general Leueret and mr Edward Ting before whome shee impleaded mee accusing mee of murther fornication and theft for which shee pleaded to have mee put to death but the honored magistrates putting her upon the prooffe shee Could proove nothing: Then they were pleased to take much paines in perswading her to Live peaceably with her husband: but shee replied shee would rather bee put to death for shee was never lawfully married and I was none of her husband then they told her they would send her to prison: but shee replied shee cared not for them nor their prison neither: but shee would haue them before the King and be tryed by the Kings lawes: for he hath broken open my house and stole my goods and yee will not doe mee Justice: Whereupon the magistrates replied that it was my house and the goods that was in it: And forthwith sent the marshal to give mee possession: which he did: And they commanded her to Live peaceably with mee: and the marshal ha[ui]n[g] giuen mee possession brought her to mee: but shee forthwith fled away and tooke up her ab[ode] elsewhere: where shee continues to this day for aught I know: but soon after shee obtained an attachment for my g[o]ods or for want thereof my body: The marshal not finding my body did attach my house and left the summons in the key hole: her acktion being entred the Court Judging it unlawful for [torn] her [hus]band the acktion fell: both of us being commanded to attend the Court: and after evidence produced and plead on both sides it [torn] Court [torn] to this honored Court as appeared in their order dated the 28th of January last past wherein I conceive are many unheard of particulars required and enioyned which I am no wayes bound to: either by the law of god or the kings or the lawes of this Jurisdiction: yet execution granted & executed to Imprisonment (and that not to tryal) but there to remaine till your petitioner performe the said order Your humble petitioner doth therefore humbly beg and intreate your honours most seriously to weigh and consider the premises that we euidentced to in Court and what further I shal produce although I conceiue I may without over running my bounds allude to what the queene of Sheba said of Solomon although in a farre

different Case: namely that the one halfe hath not beene told you And also since it fully appeares that shee is so many wayes unnatural to her owne flesh: which I forbear againe to mention to your honours with her present protestations and resolutions not to give me any satisfaction for her so unheard of practtices nor any hope in the Least of any reconciliation to mee in future: but with undaunted resolution seemes to resolute without gainsaying to doe her utmost to blemish my name ruine my estate & to continue in nott yeilding that due beneuolence according to the institution and ordinance of god and her owne solemne Couenant in all respectks of honour & duty of which your honours having through grace received such a plentiful measure of the spirit of Christ to discern all things euen the deepe things of god which should I presume to name apart of that which in this case may be produced I should but Light a candle at noone day and so darken which I forbear but most humble beg and beseech your honours in your high wisdom to seeke out: And find a way how wee may Liue together according to the holy ordinance of god: which seemes to us both to be impossible: past present and future Circumstances considered: or that wee may be divorced that so wee may be no further burdensome to each other, or to this or any other of his maiesties honorable Courts: which if you doe and the Lord direct you so: I shal be farther engaged to pray according to duty for your honours tranquility in this world and in the world to come Life everlasting Your honours seruant and poore prisoner who desires to be humbled

CH: LAWSON.

ENDORSED: Christopher Lausons Petition to the Court of Assistants at Boston, 2.1.1668/9.¹

CAMP, SARATOGA, 4th Novr, 1781.

JEREMIAH FOGG TO WILLIAM PARKER.²

DEAR SIR, — You must before this time have heard of our sudden and unexpected departure from Peekskill and arrival at this place in consequence of some ill founded reports of the enemy's being below Lake George. This Hemisphere is now enlightened by the benign rays of the Lord of Basking-Ridge and his Satellites who contrary to astronomical Principles has eclipsed our northern regent or rather crowded him from his Orbit; however, altho the eclipse is total its duration will be short and the first fair day this intruding Planet will disappear.

The enemy's advance has been slow, perplexing and singular, indicating, on the whole, an attack of some consequence. they

¹ See *Mass. Col. Rec.*, iv. ii, 426.

² See p. 427, *supra*.

now appear to be erecting Barracks at Ty and establishing a Post there to the great mortification of our line as it will detain us in this desolate Country the whole Winter. The great distance of the Enemy from us and their advantage of Water carriage have occasioned very hard [duty] in Scouting, and an unusual flux and reflux of the Militia — you know they increase and decrease like the moon which affords us the most light in fair weather. they are now all dismissed and our force consists of 3 Contl and two State Regts. I yesterday returned from a Scout of 20 Miles N. West to the bend of Hudsons river and on my return was charmed with the discharge of 14 Canon in consequence of official intelligence that Cornwallis with Nine thousand five hundred Men surrendered to the Allied Army on the 19 Ulto. A Series of fortunate events has attended our Arms this Campaign. I need not particularize as you must long before this reaches you hear of Genl Greens most important battle and success with that of Colo Willet on the Mohawk. We Strut like Turkey cocks in all their vernal Pride, notwithstanding we are naked and Moneyless destitute of Women and Wine. It appears that Previous to Cornwallis's Surrender the two light Corps of our Armies stormed two important redoubts of the enemy (with little loss) which commanded their main Works and in which one hundred Canon and Mortars were placed immediately, the music of which soon lulled the Gentlemen to sleep. You know the indignity with which G. Lincoln was treated by Cornwallis. His Excellency retorted with a certain neglect to which his good sense and politeness gave the keenest [ed]ge. A single distant bow, as his Lordship marched out, was the sole compliment, after which, he and his were committed to the care of Genl Lincoln. But in the midst of the most pleasing event when every patriotic heart distends with Joy the cruel hand of fate must lop off one of the principle branches of the tree of liberty. The lovely Scammell is fallen. And if ought in good Sense, learning virtue, Politeness Ambition and universal benevolence can excite our love; if the loss of a sincere friend who for seven years has sacrificed his personal ease and interest to the publick, can come regret, the Scholar, Patriot and Gentleman and Israelite must join to shed a tear and imitate his virtues. Providence seems not more unaccountable in any part of its dispensation than in the choice of victims. Perhaps tis an act of Mercy lest some future deviation should disqualify them for the rewards to which their virtues have entitled them. A Poor and a Scammell, flowers of an Army must be blasted while — & — ripen for contempt. Character fortune and life are as uncertain as a game at dice, and he is the happiest who has the least Sensibility or the most Philosophy to check the

passions in Scenes of Adversity. No man feels more sensibly from the smiles and frowns of fortune than myself but to reflect *long* on events whatever may have been their cause or to anticipate uncertainties is not my property.

My absence on the last Scout prevented my going to Ty with a flag which was no small mortification to me notwithstanding I must have borrowed Money and cloaths to have qualified me for the embassy. If those two requisites for the appearance and recommendation of a gentleman and officer are to be obtained I will never commence another Campaign without a full supply. This unexpected Tour northward has so disconcerted me that I know not what to do. Our Winter quarters are not yet appointed, but if the Assignment is on this side the world of Spirits I shall visit N. Hamp.

Since I began this a Scout¹ has returned informing that the main body of the enemy have disappeared at Ty landing only a small Guard, so that I know not what to think of our destination, but Genl Stark's determination is to keep the two Regts till Spring.

We live in daily expectation of some of the french Livres gone forward to Congress if they do not arrive shortly we shall think they have adopted the Mode of a certain body of Men who pocket the town Taxes til the rising of the house with a view to serve themselves.

A Feu de Joie of Small Arms and a Gill of rum amongst the men have caused so much Noise in Camp this Morning that I must wind up and subscribe

JERE FOGG.

BROOKS' ASSAULT UPON SUMNER.

The three letters which follow are taken from the annual report of the American Historical Association for 1911, being a part of the Toombs-Stephens-Cobb correspondence, compiled and edited by Prof. Ulrich B. Phillips, of the University of Michigan, and to be published by the American Historical Association.

JUNIUS HILLYER¹ TO HOWELL COBB.

MONROE [GA.], May 28th, '56.

DEAR HOWELL, . . . Brooks and Sumner have had some sport in the Senate. I don't see what your house has to do with

¹ 1807-1886, who had been in the House of Representatives 1851-1855. In 1857 he became Solicitor of the Treasury Department, but resigned when Georgia passed the ordinance of secession.

it. When you see Mr. Brooks give my respects to him and offer him my sympathy and most sincere regard.

Of course the action of your committee and of your house will fizzle out.

Nothing new here in politics; we are getting up our July convention and preparing to make a rally for some body we don't know nor care who.

Are you seeking the Vice Presidency? You might make capital in the Senate; but you will do better in the cabinet.

ROBERT TOOMBS TO GEORGE W. CRAWFORD.

WASHINGTON, D. C., May 30, 1856.

. . . The Yankees seem greatly excited about Sumner's flogging. They are afraid the practice may become general and many of [their] heads already feel sore. Sumner takes a beating badly. He is said to be ill tho' I don't believe it. Kansas seems to surrender at discretion, and no more can now be made out of the "border ruffians." They have taken away all of the Sharp's rifles from the friends of liberty, who are whining like whipped curs.

GAZAWAY B. LAMAR TO HOWELL COBB.¹

NEW YORK, May 31, 1856. 7

MY DEAR SIR, — You are in the midst of exciting scenes and words provoking and sometimes insulting perhaps to Southern blood and so prone to them as perhaps to mislead your usual good judgment.

I arrived here this morning from Savannah and saw you are on the committee of the House to investigate the matter of the assault of Mr. Brooks upon Senator Sumner, and I presume to suggest to you my views as to the course you ought to pursue, independently and honestly, let the consequences, temporarily or permanently, be as they may.

Viewed dispassionately in every light, the assault was unjustifiable, unmanly, illtimed, illadvised, injudicious to the cause of the South, and totally indefensible as to time, place and manner; and it is my deliberate opinion that to attempt to sustain it by the South or any portion of it will prove disastrous in the extreme, — for the public opinion can never be brought to approve of it. Senators had accused him of *fanaticism* and had in various ways insulted him as

¹ A Georgian, born 1798, died 1874, who removed to New York in 1845. During the war he acted as financial agent of the Confederacy in that city.

much or more than he did Senator Butler in his speech as I have seen it reported. He was therefore (give the Devil his due) justifiable under the *lex talionis* for his language and his sarcasm and ridicule.

Then, for a gentleman and a man of honor to assault another with a stick, giving him no opportunity of defence was cowardly and unmanly and cannot be justified. Then, doing it in the Senate Chamber and for words spoken in debate in which he has the Egis of the Constitution to shield him. Then, unfortunately and worst of all for the South or the Democracy to sustain it is abominable and will draw down tenfold force upon them with all right-minded men. *Now Sir* is the *crisis* for you. "*Fiat justitia ruat coelum.*" Take the Bull by the horns and shake him lifeless. If Mr. Brooks cannot justify himself, *expel him*; and at any rate even with the best case he can make, if any be possible, he has so outraged decency, propriety and manliness let him not escape severe punishment, that the constitutional right of speech be properly vindicated, that at least one Southern man in high place can be honest and independent and do right even to an Abolitionist. Be fearless and *lead* the public mind the right way, the best for the South, the best for the East the West and the North and the best for you. If fanaticism strike at you and there is plenty of it at the South to do it, meet it and crush it by manly honest upright argument and you'll soon ride upon the storm.

You can do it without truckling to the North and without offence to any but the most infatuated prejudices of the South. If Mr. Brooks dare assail you as opposing him and threaten, let him be defied. Shield yourself under your official position on the Committee and let the world know that you dare to act honestly and independently even with Southern prejudices against you. They will soon evaporate and you will stand as a pillar unshaken by the storm and admired by them as well as the whole country.